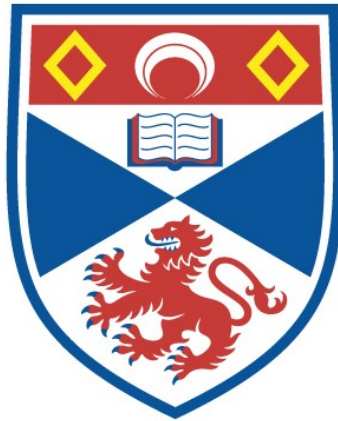


**LAW AND ORDER IN FIFTEENTH-CENTURY
ENGLAND : WITH PARTICULAR REFERENCE
TO THE PASTON FAMILY**

Sarah Ann Louise Hearn

A Thesis Submitted for the Degree of MPhil
at the
University of St Andrews



1982

Full metadata for this item is available in
St Andrews Research Repository
at:
<http://research-repository.st-andrews.ac.uk/>

Please use this identifier to cite or link to this item:
<http://hdl.handle.net/10023/14575>

This item is protected by original copyright

ABSTRACT

Law and Order in Fifteenth-Century England with Particular Reference to the Paston Family

The Pastons were a family of landed gentry living in Norfolk in the fifteenth century. During the years 1422-1470 they rose socially to the highest echelons of their rank, acquiring land and status as they rose. In order to understand the significance of this upward mobility it is necessary to examine the background of the period. Through a discussion of the legal machinery and social structure in the fifteenth century it becomes clear that the Pastons' rise was even more momentous because of the family profession. Involvement with the law was only just beginning to be regarded as acceptable.

As the family rose in prominence in Norfolk society we see them adopting the behaviour and prejudices common to the more ancient landed gentry and the nobility. This is evidenced in their self-righteous indignation over persecution by the gangs which terrorized the countryside, and especially in their anger over the unacceptable marriage alliance of one of their daughters.

By the time of the latter event, 1467, the Pastons were firmly established as leaders in Norfolk society. But they paid the price of their status almost daily. In 1459 John I inherited large tracts of land from Sir John Fastolf in a will written and signed two days before his death. So great were Paston's powers in this will that bitter animosity arose among the other executors. They and others attempted repeatedly to remove his powers and disseise him. Throughout the 1460's the Paston family's entire concern was to retain their inheritance.

ProQuest Number: 10166565

All rights reserved

INFORMATION TO ALL USERS

The quality of this reproduction is dependent upon the quality of the copy submitted.

In the unlikely event that the author did not send a complete manuscript and there are missing pages, these will be noted. Also, if material had to be removed, a note will indicate the deletion.



ProQuest 10166565

Published by ProQuest LLC (2017). Copyright of the Dissertation is held by the Author.

All rights reserved.

This work is protected against unauthorized copying under Title 17, United States Code
Microform Edition © ProQuest LLC.

ProQuest LLC.
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106 – 1346

The fifteenth century is equated with and has been studied largely because of the skirmishes and battles which occupied the second half of the century. However, this study demonstrates that there was much more to the period than the 'Wars of the Roses'. Using the letters and papers of this stereotype landed-gentry family as the primary source, the succeeding pages attempt to illustrate law and order, not as exercised by a manipulative, dictatorial central administration, but used on the local level to combat disorder on a very narrow scale.

LAW AND ORDER
IN
FIFTEENTH-CENTURY ENGLAND
WITH PARTICULAR REFERENCE TO
THE PASTON FAMILY

A dissertation submitted for the degree of M.Phil.
at the University of St. Andrews, March 1982

SARAH ANN LOUISE HEARN



Th 9599

To my mother with love,
and in memory of my father.

DECLARATION

I hereby declare that this thesis has been composed by me, that the work of which it is a record has been done by myself, and that it has not been accepted in any previous application for a higher degree in the University of St. Andrews or elsewhere.

STATEMENT OF RESEARCH

I was admitted as a Research Student in the University of St. Andrews under Ordinance General No.12 as from October 1979 and enrolled for the degree of M.Phil. under Resolution 1980 No.2 as from 23 April 1980. This thesis embodies the results of the higher study undertaken by me on the topic approved by the Senatus Academicus of the University of St. Andrews.

CERTIFICATE

I hereby declare that the conditions of the Resolution and Regulations for the degree of Master of Philosophy (M.Phil.) at the University of St. Andrews have been fulfilled by the candidate, SARAH HEARN.

Supervisor

ACKNOWLEDGEMENTS

I would like to thank Miss Anne J. Kettle, my supervisor, for her unfailing help and support through the years this thesis took to complete; and also Professor D. E. R. Watt, Chairman of the Mediaeval History Department. I also thank Professor D. A. Bullough for making available to me the facilities in St. John's House, Centre for Advanced Historical Studies; providing me with a place to work through these years. I would also like to thank sincerely all my friends at St. John's and those from home for their unflagging support and comfort in both my darker moments and my times of exultation. I also acknowledge with love and appreciation the support of my brother and sister who constantly shored up my failing self-confidence.

TABLE OF CONTENTS

	Page Number
ABBREVIATIONS AND SHORT TITLES	i
INTRODUCTION	ii
 <u>CHAPTER ONE</u> : The Political, Legal, and Social Background of Fifteenth-Century England	
1. The Political Situation in England, 1422-1471	1
i The Minority of Henry VI, 1422-1437	1
ii The Personal Rule of Henry VI, 1437-1450	8
iii The Rise and Fall of the Duke of York, 1450-1460	17
iv The First Reign of Edward IV, 1461-1470	29
2. The Legal Machinery of Fifteenth-Century England	43
i Local Administration	44
ii Local Officials	49
iii Central Courts	53
a King's Bench	53
b Common Pleas	56
c Chancery	59
d Exchequer and King's Council	62
iv Central Officials	64
v Commissions	68
vi Justices of the Peace	70
vii Conclusion	78
3. The Social Structure of Fifteenth-Century England	80
i Changing Theories on the Structure of Society	80
ii The Strata of Society	81
a The Nobility	81
b The Middle Ranks	87
(i) The Gentry	87
(ii) The Merchants	90
(iii) The Lawyers	93

	Page Number
iii Ties of Dependence	97
a Bastard Feudalism	97
b The Magnate Affinity	98
c Abuses of the System	101
iv Conclusion	107

CHAPTER TWO : The Pastons and Norfolk

1. The Paston Family	110
i The Pastons and Fifteenth-Century Society	110
ii The Paston Family	112
iii Biographies of the Paston Family	119
2. Violence in Norfolk	130
i Countywide	130
ii Violence in Norwich	153
iii Conclusion	157

CHAPTER THREE : The Pastons and the Legal Profession

1. The Legal and Official Activities of the Pastons and their Circle	159
i The Pastons and the Legal Profession	160
a As Lawyers	160
b Involvement in Legal Business	166
(i) As Legal Advisers	166
(ii) Enfeoffments to Uses	174
(iii) Pastons as Suitors	179
(iv) Pastons as Witnesses	182
ii Official Activities	184
a Assize and Gaol Delivery	184
b Oyer and Terminer	187
c Commissions of the Peace	192
d Array and Other Non-Legal Commissions	197
e Members of Parliament	200
iii Legal and Official Activities of Paston Associates	209
iv Conclusion	215

CHAPTER FOUR : Land Transactions and Problems of the Paston
Family, 1422-1476

1.	The Pastons and their Land, 1422-1459	217
i	Transactions Concerning Land	218
a	Marriage Contracts	218
b	Wills	221
c	Leases and Other Land Transactions	225
ii	Disputes over Land	228
iii	Conclusion	236
2.	Sir John Fastolf's Will and its Consequences, 1459-1476	..	238
i	The Will	238
a	Fastolf Family History and Early Land Acquisitions		239
b	Caister Castle	242
c	Further Land Acquisitions and Resulting Problems		246
d	Involvement with the Pastons	250
e	The Death and Wills of Sir John Fastolf	252
f	Disputes over the Wills	261
ii	The Consequences	276
a	Isolated Cases of Land Snatching	276
b	Hellesdon and Drayton	282
c	The Siege of Caister Castle	285
d	The Compromise with Waynfflete	292
iii	Conclusion	296
APPENDIX	I : The 'Origins' of the Paston Family	299
	II : The Armorial Bearings of the Pastons, their Spouses and their Friends	302
	III : A Writ of Attachment	305
	IV : The Pastons' Yearly Commissions of the Peace Per Person, 1414-1470	306
	V : The Pastons' Monthly Commissions of the Peace, 1414-1470	307
	VI : A Writ of <u>Diem Clausit Extremum</u>	308

	Page Number
BIBLIOGRAPHY	309
MAP I : Fifteenth-Century England	315
II : The Pastons' East Anglia 1459	316
III : Caister Castle	317
GENEALOGICAL TABLE OF THE PASTON FAMILY, 1378-1732	318

ABBREVIATIONS AND SHORT TITLES

<u>Bartholemew, Gazetteer</u>	..	J. G. Bartholemew, <u>The Survey Gazetteer of the British Isles</u> Edinburgh, 1904.
Bennett, <u>The Pastons</u>	..	H. S. Bennett, <u>The Pastons and their England</u> Cambridge, 1922.
<u>B. I. H. R.</u>	<u>Bulletin of the Institute of Historical Research.</u>
<u>B. J. R. L.</u>	<u>Bulletin of the John Rylands Library.</u>
<u>C. C. R.</u>	<u>Calendar of Close Rolls.</u>
<u>Cal. Inq. P. M.</u>	<u>Calendarium Inquisitionum Post Mortem.</u>
<u>C. P. R.</u>	<u>Calendar of Patent Rolls.</u>
<u>Crown and Nobility</u>	J. R. Lander, <u>Crown and Nobility, 1450-1509</u> London, 1976.
<u>D. N. B.</u>	<u>Dictionary of National Biography.</u>
<u>E. H. R.</u>	<u>English Historical Review.</u>
<u>Fifteenth-Century England</u>		<u>Fifteenth-Century England, 1399-1509.</u> S. B. Chrimes <u>et al.</u> , eds. Manchester, 1972.
<u>Hist. MSS Comm.</u>	<u>Royal Commission of Historical Manuscripts.</u>
<u>P. L. (D)</u>	<u>Paston Letters and Papers of the Fifteenth Century</u> ed. N. Davis, Oxford, 1971 and 1976.
<u>P. L. (G)</u>	<u>The Paston Letters A.D. 1422-1509</u> ed. J. Gairdner, London, 1904.
<u>P. R. O.</u>	Public Record Office.
<u>Rot. Parl.</u>	<u>Rotuli Parliamentorum.</u>
<u>T. R. H. S.</u>	<u>Transactions of the Royal Historical Society.</u>
Wedgwood, <u>Biographies</u>	..	J. C. Wedgwood, <u>History of Parliament. Biographies of Members of the Common House</u> London, 1936.

INTRODUCTION

The Pastons, their friends, enemies, and neighbours are larger than life; or at least, so marvellously well-drawn are they (by themselves and by each other), that that is what they have become. They seem so real, indeed they are so real in contrast to their dim contemporaries, that theirs is taken for the only reality.¹

It is Dr. Colin Richmond's contention that the Pastons are the most real to us only because we know so much about them. In fact, he feels that they are far from representative of fifteenth-century landed gentry; they are, rather, atypical. This he substantiates by writing an entire book about one of 'their dim contemporaries', John Hopton.

John Hopton was a fifteenth-century gentleman of Suffolk. Unlike most of his East Anglian contemporaries of note, especially John Paston, he was 'made neither by birth, nor service, nor marriage'.² Hopton inherited substantial property, as did Paston, but his chance came when he was a young man, Paston's came late.³ When discussing John I's land contests post-1459⁴ it is necessary not to overlook the vital point that, although the case against him was fairly weak, we cannot ignore the possibility that Paston may have, as Richmond appears to think, 'made every effort and used every means to secure' Fastolf's landed fortune.⁵ Hopton, on the other hand, had an undoubted legal right to Sir

1. C. Richmond, John Hopton (Cambridge, 1981), 102.

2. *Ibid.*, 29.

3. Although he was only 38 years old at Fastolf's death, he died when he was 45. So, in terms of a lifespan of 70 years, it would have been as though he had inherited the property at the age of 63.

4. See below, pp.276-291.

5. Richmond, John Hopton, 29.

Roger Swillington's lands; his title was clear, therefore it would have been pointless to dispute his ownership.¹ As long as Paston's title was ambiguous there was no reason for his adversaries to give up hope of either forcing a confession of forgery from him or of harassing his family out of the property. John Hopton won his inheritance without a battle, John Paston never saw victory. For seven years he never relaxed his campaign and yet at his death in 1466 he was no nearer success. As we shall see,² ten years passed before the conflict over the Fastolf inheritance ceased with a compromise. To gain some properties John II had to surrender others; 'he gained much but he had not won all'.³

The fact that Richmond was able to draw comparisons in this detail and write a book on such an obscure figure indicates that sources were available for him to do so. Why then was it not written before? Surely the sources were always there? Certainly, yet only now is the fifteenth century beginning to attract the detailed historical interest which until recently has been the especial preserve of the immediately preceding centuries. As a result a study of some particular aspect of it needs no justification. A corollary of this new interest is that a re-examination of any substantial source pertaining to it, and the Paston Letters are a notable example, becomes doubly valuable. They provide a fascinating overview of practically every aspect of those disturbed years.

1. Ibid.

2. See below, pp.292-296.

3. Richmond, John Hopton, 29-30.

Perhaps the best known use of the Pastons to illustrate the average existence of fifteenth-century landed gentry is H. S. Bennett's The Pastons and their England. Although this work is now considered out-dated, it was at one time and, on a general level, may still be considered as the definitive work on the subject. Mr. Bennett laid the foundations for subsequent work which uses the Paston Letters, and a quick perusal of his Table of Contents indicates the many facets of life at that time he was able to discuss with the Pastons as his model.

The Pastons were not people of any peculiar genius, but ordinary well-to-do folk. They found, as did most of their neighbours, that if they wished to hold, or still more to increase what possessions they had, it was necessary to fight vigorously with every weapon law, use, experience or cunning could devise. Hence, a study of their many-sided activities allows us to form a clear idea of the condition under which they lived, while the letters of their friends and many correspondents help to complete and to widen the view-point. They receive letters from Bishops or serving-men, prisoners or Dukes, priests or ribald companions; and all help us to reconstruct the social history and life of their times.¹

We also find certain of their experiences used as examples by K. B. McFarlane to illustrate the exercise of 'good lordship' in the elections for membership in parliament as well as general usage of the various aspects of bastard feudalism.² The Pastons are also used in discussions concerning 'good lordship' by other authors, although largely on a more general level : to illustrate a particular point for example. The fact that a single letter or a small number of them can be used in this way serves to underline their overall importance as historical sources.

-
1. H. S. Bennett, The Pastons and their England (Cambridge, 1922), xv-xvi.
 2. K. B. McFarlane, 'Parliament and "Bastard Feudalism"', T.R.H.S., 4th Series, 26 (1944), 53-79; see below, pp.200-209 for a full discussion of electioneering in the fifteenth century.

The letters were viewed as sufficiently important by C. L. Kingsford for him to devote a significant number of pages to them in English Historical Literature in the Fifteenth Century.¹ It is also interesting that he regards them not only as historical sources but also as literature. It speaks greatly for their content and literary style.

Because of the all-encompassing nature of this correspondence historians have been able to refer to the Pastons again and again to exemplify whatever subject was under discussion. In fact, it is fair to state that it would be difficult to write on any subject of fifteenth-century England without at some time referring to the Pastons through their Letters. In many of these studies which make reference to the Paston family or their correspondence as a source one point becomes apparent : that most of their problems had significant legal aspects. If one regards the family as the stereotype of landed gentry in the fifteenth century, as most of the authors who refer to them appear to do, one quickly realizes that law and order was a primary concern in that period. Therefore it is hardly surprising that most of the Pastons' difficulties should have been legal in nature. It is not within the scope of this study to attempt a countrywide survey of law and order in the fifteenth century. The Pastons, however, through their voluminous documents, provide a convenient and readily available source, illustrating many aspects of such a study in microcosm.

The fifteenth century can scarcely be regarded as a time when men single-mindedly observed the niceties of the law and of accepted behavior of the time. The squabbles in the highest echelons of the nobility were

1. Published at Oxford, 1913.

scarcely a good example for the lower ranks. These major internecine struggles were mirrored in the minor skirmishes taking place locally and the Paston Letters constitute a testament to this unrest. The problems the Pastons had to face were not of the same nature or on the same scale as those facing the great magnates, yet they can be seen to have played a comparably significant rôle in the life of the family. This tendency is exemplified and demonstrated by the fact that those clashes which historians are pleased to call the 'Wars of the Roses' filled a markedly minor slot in the minds of the Pastons and therefore in the contents of their correspondence. The family was clearly more concerned with its own problems and the localized disorder in Norfolk.¹

Those incidents of disorder on the Paston estates which fill the pages of the Paston Letters had in fact very little to do with public disorder although this was certainly not overlooked in their contents. The Pastons, like their contemporaries, were enmeshed in the multi-faceted system of 'good lordship' prevalent in the fifteenth century; but unlike most of their neighbours they were not, on the whole, as advantageously positioned. Although they accepted the system and endorse

-
1. Only seven letters can be regarded as totally devoted to a description or discussion of events of national importance. These were written between the years 1450 and 1471 and make mention of most of the major national disturbances in those years. P.L.(G), ii, 120; P.L.(D), ii, 450, the murder of the duke of Suffolk, May 1450; P.L.(G), ii, 126; P.L.(D), ii, 692, Cade's Rebellion, June 1450; P.L.(G), ii, 143; P.L.(D), ii, 460A, demands from the duke of York to Henry VI, October 1450; P.L.(G), iii, 400; P.L.(D), i, 88, the capture of earl Rivers, January 1460; P.L.(G), iii, 450; P.L.(D), i, 90, an account of the battle of Towton, March 1461; P.L.(G), v, 774; P.L.(D), i, 261, the death of the earl of Warwick at the battle of Barnet, April 1471; and finally P.L.(G), v, 777; P.L.(D), ii, 916, a list of the dead, executed, and knighted at the battle of Tewkesbury, May 1471. Men and events to do with the 'Wars of the Roses' are mentioned briefly in a number of other letters.

it through their own participation, their attitude was by far more sanguine. As a result the family was frequently at the mercy of these more cynical and sophisticated men.

However, although they were not as important as their titled neighbours, the Pastons were important enough to pose a threat to the gangs which roamed the countryside, and therefore to be threatened by them. The aloof outlook exhibited by, for example, Margaret Paston to the disturbances in the county was in character with their desired rank. That is, she was interested in the violence around her only in an abstract way, yet she was thoroughly affronted if she was actually touched by it.

The number of commissions on which the Paston men repeatedly served, and their general competence as legal advisers also seems to indicate that they were regarded equally with their more legally expert colleagues. It would also seem to suggest that their position as landed gentry was secure in the eyes of the powers-that-be.¹

The Paston Letters

The Paston Letters had been carefully preserved by the family but were finally sold by William Paston VII, 2nd earl of Yarmouth, to Peter le Neve, probably in settlement of a debt. They devolved to Mr. Thomas Martin who married le Neve's widow in around 1730, and they finally came

1. The legal commissions are a good guide to the requirements of social status in the fifteenth century. Through them it is possible to trace the social rise of men by the frequency of the recurrence of their names on the commissions lists. The classic example of this is the case of Justice William Paston whose growing importance is evidenced by the increasing frequency of his service on commissions of the peace. See below,

into the hands of Mr. John Fenn from John Worth who had purchased them from Martin.¹

The Paston Letters were first mentioned by that name in 1784 by Horace Walpole. In a letter to John Fenn he called them 'the most curious papers of the sort I ever saw', and urged Fenn to edit and publish them. Consequently, in 1787 Fenn brought out two quarto volumes containing 155 letters and related documents. He issued a second edition the same year.² In 1789 he issued two more volumes containing another 220 letters. A fifth volume was brought out by his nephew, William Frere, in 1823. It contained an additional 110 letters.

Frere's collection contained only part of the letters and documents now known, and he printed only a selection of the earlier documents.³ In 1865 Philip Frere, the great-nephew of Fenn, found the manuscript of the fifth volume and some unpublished letters, including several from the sixteenth and seventeenth centuries, in his house at Dungate, Cambridgeshire. These he sold to the British Museum in 1866.

When James Gairdner was preparing his first edition of the letters for publication in 1872-5 he wrote to George Frere asking him whether more letters might not be at his house, Roydon Hall in Norfolk. Receiving a negative answer he proceeded with his publication plans but was held up by a communication from Frere informing him that a number of letters had been found at Roydon. 'I was allowed to inspect them at his son's chambers in the Temple, when I found among them those very original

1. P.L. (D), i, p.xxv.

2. Ibid., p.xxiv.

3. Ibid., pp.xxv-xxvii.

of Fenn's third and fourth volumes which eight years before he could not believe were in his possession!¹ As a result he added a third appendix to the edition. The Roydon Hall manuscripts were sold by Christie's in 1888 and resold by the buyer to the British Museum in June 1896. Another group of letters were found at Roydon Hall at the same time and sold. They were bought by the British Museum in 1904.²

Although most of the letters were now together in one place the ~~orig~~ first two volumes of Fenn's 1787 edition, presented to George III, had not been with the Royal Collection when it had been presented to the British Museum by George IV in 1823. They eventually turned up at Orwell Park, Suffolk, a part of the property of the late Colonel George Tomline. These books were not open to public inspection so that Gairdner could not include them in the fourth volume of his 1901 edition. However, they were finally purchased by the British Museum in 1933. The collection now only lacked one letter situated at Holland House.³ Its presence had been noted by Princess Maria Liechtenstein in 1874 and mentioned to Dr. Gairdner that same year.⁴ This letter was removed to Melbury by the earl of Ilchester during World War Two and subsequently sold with his other papers in 1964. It was bought by the British Museum.⁵

Not all the Paston Letters and Papers are in the British Museum. In 1968 Messrs. Hofmann and Freeman presented a single letter in the

1. P.L. (G), i, 8-9.

2. P.L. (D), i, pp. xxvii-xxviii.

3. P.L. (G), ii, 52; P.L. (D), ii, 425.

4. P.L. (G), i, 15.

5. P.L. (D), i, pp. xxix-xxx.

handwriting of James Gresham to the Bodleian Library, Oxford where there was already a number of documents. Magdalen College also has many important papers because the founder of that college was William Waynflete, bishop of Winchester and co-executor with John Paston I of the will of Sir John Fastolf. Most of these documents in the college library deal with the agreement between Waynflete and John II dated 14 July 1470.¹

In the Pierpont Morgan Library, New York, there are seven letters and documents concerned directly with the Pastons and three others on related subjects. How they came to the library is unknown but they were part of the collection of John Thane (1748-1818), a printseller and antiquary of Soho. There is a small group of letters at Pembroke College Cambridge, presented by the Rev. Charles Parkin (died 1765). They are contained in a single volume. Two letters from William Paston II to Richard Roos² remain at Belvoir Castle where they have evidently been in the family archives without interruption since they were received. Neither of these was printed by either Fenn or Gairdner.³

Gairdner's three volumes of 1872-5 were the first since Fenn's to introduce new material or to be based on manuscripts. A 'new edition' of three volumes was issued in 1896. In the 1901 edition Gairdner did transcribe 105 additional letters and printed them as a Supplement to the fourth volume. In 1904 he issued a 'new and complete Library edition' with the text entirely in six volumes and limited to 650 copies.⁴

1. Ibid., p. xxxi.

2. P.L. (D), i, 108 and 109.

3. Ibid., p. xxxi.

4. Ibid., p. xxxiii.

The latest edition of the Paston Letters is in two volumes, edited by Norman Davis in 1971 and 1976. Professor Davis has used a different format in presenting the letters than was used by any of the earlier editors. Gairdner, in his 1904 edition, wrote 'the letters are here reproduced as they are printed in previous editions, only in better order. Fenn's text has been followed, where no corrections have been found, in all the letters printed by him except those of his fifth volume'.¹ Gairdner's rule was chronological order regardless of writer or recipient of the letter. This seems to have been Fenn's policy as well. However, in the introduction to his 1872 edition, Gairdner wrote, 'the errors in Fenn's chronology are numerous and so exceedingly misleading that, indispensable as these letters now are to the historian, there is not a single historian who has made use of them but has misdated some event or other, owing to their inaccurate arrangement. Even writers who have been most on their guard in some places have suffered themselves to be misled in others'.²

Although the use of chronology is not an inaccurate method of arrangement, by itself it has not proved to be the most efficient. Professor Davis made use of chronological order in a different way. 'In Part I the letters and papers are arranged under the names of the various authors, who are placed in order of seniority in the family but with wives at the end of each generation. Each author's papers are arranged chronologically ... In Part II the letters to members of the family are arranged under the names of the recipients, and after them are miscellaneous documents.'³ This lay-out allows the historian to find a letter

1. P.L. (G), i, 19.

2. Ibid., 12.

3. P.L. (D), i, p.lxxx.

more quickly. There are two possible methods of doing so : first, if one knows either the recipient or the writer one can turn directly to his section; or if one knows the date (which helps to rule out certain members of the family), one can turn to the detailed Table of Contents and search through the relevant years. Failing either of those methods, Professor Davis has also compiled an admirable cross-referenced Index.

The information before each letter concerning whereabouts of the original, size of the sheet on which it is written, cross-references to Gairdner's 1901 and 1904 editions as well as Fenn's original volume and page number, and a brief summary of the significance of the contents, combines to make Professor Davis's edition of the Paston Letters more reliable. As a result, the extracts from the letters cited in the following pages are from the Davis edition. Any significant differences in dating between Gairdner and Davis were explained by the latter in his headnotes and are pointed out in footnotes hereafter. Davis preserved the spelling in the original manuscripts, including the letters þ and ȝ ; however these have been modernized for the sake of clarity. The only time Gairdner's version of the letters has been used is when there was no Davis equivalent. In the footnotes the volume and letter numbers of Gairdner's 1904 edition are always placed before those of Davis's edition. This is for no reason other than that Gairdner's transcription was read before Davis's and his letters noted first. At all points when there was a question of accuracy, the Paston Letters and Papers of the Fifteenth Century, edited by Norman Davis, were the final authority.

The Paston Letters are a collection of over one thousand letters and documents of the fifteenth century written by, to, or concerning the

members of one family. They 'represent the thought and activities of a typical English squire's family of the fifteenth century'.¹ This plethora of documents is a fertile source for almost every branch of historical research. For the social historian the letters provide a great illustration of the social mores and behaviour patterns of the fifteenth century. The economic historian can study the family's rise to the higher echelons of the landed gentry and their subsequent pecuniary dilemmas in order to understand the importance of land as the source of income in the fifteenth century. He would also see the profits of this capital constantly reinvested in the land in a continuous circular pattern thereby effectually reducing the family income to nil. For the socio-legal historian the Paston Letters are ideal, for they illustrate the workings of the fifteenth-century legal system both in its day-to-day functions and in its extraordinary capacity. Because the Pastons were involved, individually and collectively, in all the multifarious aspects of the law, it can be asserted that they and their associates, in their legal activities, exemplify, in microcosm, the wider functioning of law and order in fifteenth-century England.

1. Bennett, The Pastons, xv.

CHAPTER ONE

The Political, Legal and Social Background of
Fifteenth-Century England

1. The Political Situation in England, 1422-1471

i The Minority of Henry VI, 1422-1437

The period of history encompassed by the dates 1422-1471 saw some of the worst political upheavals in England in the Middle Ages. It is precisely this unrest which sets the tone for a further examination of law and order. In fact without appreciating its intricacies, a full understanding of the significance of the numerous problems to be discussed later would be far more difficult. It is not the purpose here to do more than relate the events; however, perhaps it will serve as an adequate backdrop to the rest of the work.

There are many theories as to the causes of the 'Wars of the Roses',¹ and as many historians for each one. One common note sounds throughout their various works : the political incompetence of Henry VI. K. B. McFarlane comments that although the nobility eventually was compelled to act in a violent manner to preserve the kingdom from complete degeneration due to Henry's policies, 'it does not follow that they liked the task'.²

-
1. Throughout this work whenever the battles of the years 1450-1485 are mentioned as the 'Wars of the Roses' they will be placed, as here, within quotation marks. The reason for this is that the terminology is not contemporary and is, in fact, merely a convenient method of differentiation used by historians. Although the Yorkists were sometimes associated with a white rose, the Lancastrians never used the red. This was a later embellishment by Tudor writers.
 2. K. B. McFarlane, 'The Wars of the Roses', Proceedings of the British Academy, 50 (1964), 97.

In order to understand the subsequent conflicts it is necessary to begin with the death of Henry V and the immediate problems caused by the accession of his nine-month-old son, Henry of Windsor. It is partly to this event that the conflicts which occurred in England for fifty years can be traced.

When Henry V died in September 1422 England was faced for the third time in a century with a royal minority. However, in this instance the problems inherent in a minority were exacerbated by the age of the new monarch. Henry V, however, did attempt to make some sort of provisions for the guardianship of his son.¹ J. S. Roskell asserts that royal power was to be exercised in England by Henry's youngest brother Humphrey, duke of Gloucester, and in France by John, duke of Bedford.² This has always been a source of controversy; most historians tend to agree with the magnates of that time that Gloucester was simply attempting to further his own ends.

In November 1422 he submitted a memorandum to parliament. In it he asserted that Henry V had granted to him tutela et defensio principales of the young king in a codicil of his will. Roskell felt that if Henry meant Gloucester to hold this position he would have included this desire in his written will before he left England. There was no such request and in fact according to it Gloucester was not even included in the make-up of the council.³ However, a new document has

-
1. J. S. Roskell, 'The Office and Dignity of Protector of England, with Special Reference to its Origins', E.H.R., 68 (1953), 203.
 2. Ibid., 194.
 3. Ibid., 205.

recently come to light which is the very codicil in which Henry V stated his desire that Gloucester have the tutelam et defensionem nostri carissimi filii principales. The document also states:

quod avunculus noster dux Exon' habeat persone sue regimen et gubernationem ac servitorum suorum circa personam suam electionem et assumptionem. Volumus etiam quod circa personam suam et in hospitio suo assistant sibi dilecti nobis et fideles Henricus Fitz Hugh, camerarius noster, et Walterus Hungerford, senescallus hospitii nostri, quorum alterum semper cum ipso esse volumus.¹

Thus we find that the duke of Bedford, commonly believed to have had the final word as the elder living brother of the late king, is not mentioned in connection with the new king at all. He, the queen, and the archbishop of Canterbury were simply to act as supervisors in the execution of the will.²

The council was not prepared to allow Henry V the right to appoint a regent in England. They felt that royal authority should have devolved upon them as the major et sanior pars omnium dominorum et procerum regni. It was they, the available lords spiritual and temporal, who must act pending the appointment of a sworn council, not only as the king's advisers but as the executive.³ In 1427 the lords claimed that Henry V had had no right to dictate the government of the kingdom:

1. F. and P. Strong, 'The Will and Codicils of Henry V', E.H.R., 96 (1981), 99-100.

2. Ibid., 87.

3. Roskell, 'Office and Dignity', 196; R. A. Griffiths, The Reign of King Henry VI. The Exercise of Royal Authority 1422-61 (London, 1981), 28.

the Kyng that ded ys, in his lyff ne might be his last will nor otherwyse altre, change nor abroge with oute th'assent of the three Estates, nor committee or graunte to any persone, governaunce or rule of this land lenger thanne he lyved.¹

Thus this newly-discovered codicil, even had it been known,² probably would have been ignored.

The lords in parliament primarily objected to the term tutela with its implied right to administer the ward's estate and to account only to him, and then not until he reached his majority.³ As a result they decided that Bedford should be Protector et Defensor of the realm and first councillor when he was in England. When he was not, Gloucester was to take up the position with the same restrictions.⁴ This appointment moreover was not made for the duration of the minority but was to last during the king's pleasure. In other words, the magnates as Henry's representatives had the right to revoke the Protectorship.⁵ He was further controlled by giving him the patronage of smaller offices; foresters, park-keepers, benefices valued at less than 30 marks, and prebendaries in the royal chapels. However, the commissions to these offices were to be given under the great seal and this was held by the Chancellor. Beyond this he had no real power, no power to veto, and for the most part it was not considered necessary to consult him.⁶

1. Rot. Parl., IV, 326.

2. The Stronges assert that the codicil was probably never seen by the lords in council, although it surely must have been in England. They do not speculate on the possibility of deliberate concealment: 'The Will', 82.

3. Roskell, 'Office and Dignity', 215; Griffiths, Henry VI, 28-29.

4. K. H. Vickers, Humphrey, Duke of Gloucester (London, 1907), 114; Griffiths, Henry VI, 32.

5. Roskell, 'Office and Dignity', 220.

6. Vickers, Duke of Gloucester, 114-115; Griffiths, Henry VI, 29.

It was the council as a whole which had the executive power; the presentation of major benefices and the nomination of sheriffs, justices of the peace, controllers, customs officers, etc. They also had the management of wardships, marriages and farms. To avoid the possibility of the Protector ignoring the wishes of the council a quorum of six, or at least four, was established. On matters of great importance the consent of a majority was necessary. Thus was Gloucester reduced to the level of ordinary councillor with only the priority his rank as a royal duke would have given him in a council in which his opinion was not predominant.¹

After 1422 the council ran the country. The men of this body had only their allegiance to the infant king in common; there is great truth in the statement that:

A royal minority was always a fertile breeding-time for factional dispute, and the absence of an effective king inevitably reduced the royal control over the already powerful aristocracy, many of whose members were involved in competition for the profits of political power.²

Surprisingly it was not all the members of the council who indulged in these squabbles but only Humphrey of Gloucester and Henry Beaufort, bishop of Winchester (by this time also a cardinal). The origins of the quarrel are confused but Griffiths suggests that Beaufort was appointed by the rest of the council in 1424 specifically to limit Gloucester's power.³ Beaufort was a determined man of restless energy and powerful family connections. He too was of royal blood, though not in the line

1. Ibid., 115-116.

2. C. D. Ross, The Wars of the Roses (London, 1976), 17.

3. Griffiths, Henry VI, 36.

of succession, and more than Gloucester, he was well versed in the affairs of the kingdom. His nephew, on the other hand, was lacking in the same purpose and, as he had spent much of his youth in France fighting, he had had little opportunity to gain any practical experience.¹ In 1432 Gloucester used Beaufort's cosmopolitan nature as the basis of an accusation of treason. A large amount of jewellery belonging to the cardinal had been seized at Sandwich; it was held as security for loans he had advanced to the crown. The basis of Gloucester's charges of treason seems to have been Beaufort's willingness to obey papal mandates before royal commands. As a pledge of his loyalty he was compelled to lend a further £6,000 to the crown.²

This was not the sole cause for the breach in the council. From 1428 the war in France began its inexorable downward slide for England. A crushing military defeat in 1428-9 produced such a crisis in the government that the protectorate was brought to an end in November 1429.³ Feelings within the council rapidly became strained and when, in 1435, the peace conference at Arras failed and Sir John Fastolf, a member of the King's Council in France,⁴ suggested a brief but fierce scorched-earth policy to replace the more costly siege policy and the maintenance of garrisons utilized by Henry V,⁵ the council split into two factions headed by Beaufort and Gloucester. The former was in favour of peace and began conciliatory gestures towards France.

1. Vickers, Duke of Gloucester, 168.

2. Griffiths, Henry VI, 42.

3. *Ibid.*, 38.

4. See below, pp.239-240.

5. J. R. Lander, Conflict and Stability in Fifteenth Century England (London, 1969), 66.

Gloucester, on the other hand, led a 'war-hawk' movement which favoured Fastolf's suggestions. This schism lasted until Henry VI's marriage to Margaret of Anjou in 1445. Further complications developed when it became apparent that the duke of Bedford firmly but tactfully supported Cardinal Beaufort.¹

When Bedford died in 1435, worn out and frustrated by his attempts to retain France for his nephew, an era ended. His work as protector had been preservative rather than constructive. He believed absolutely in royal authority and would allow no diminution of it. He was a self-effacing man, as witness the many years of willingly assumed drudgery in France, and yet he fully identified with the concept of government by council during Henry's minority. It was for this reason that he set his face firmly against his brother's attempts to usurp royal authority.²

We can say with some degree of justification that it was Bedford's solid sense that prevented the council from dissolving and re-forming several times especially at the peak of the Beaufort-Gloucester dispute. The council, despite these difficulties and the inherent preference of magnates for self-interested rather than public policy, constantly contrived to clarify its functions as a governmental organ and to maintain a certain degree of stability.³ As a result:

-
1. S. B. Chrimes, 'John, First Duke of Bedford; his Work and Policy in England, 1389-1435', B.I.H.R., 7 (1929), 112.
 2. *Ibid.*, 113.
 3. S. B. Chrimes, Lancastrians, Yorkists and Henry VII (London, 1964), 55; Griffiths, Henry VI, 29.

the period of the royal minority was comparatively free from the serious kind of disorder engendered by the disputes of magnates, and the efforts of the other councillors to keep the peace between these and other contestants testified to a collective sense of responsibility for the stability of the kingdom.¹

In 1437 Henry VI, at the age of sixteen, ended his minority. From this point the council could only advise and could only execute policy when expressly asked to do so. It could not, as it had done, initiate it -- and its discretion was confined to routine matters and then only to those on which it was nearly unanimous.² This, as we shall see, proved to be the end of the most stable period in Henry VI's reign.

ii The Personal Rule of Henry VI, 1437-1450

Henry VI has been continuously portrayed as a spiritual man seeking only the contemplative life and therefore leaving the ruling of his country in the hands of a series of self-involved men whose only desire was to acquire as much property as possible for themselves and whose policies drove the country to the brink of ruin as a result. B. P. Wolffe dispels these misconceptions by asserting that there is no contemporary evidence to support the impression of a particularly pious court and suggests that the source of these rumours might stem from the fact that Henry's policies, actions, and attitudes brought great trouble and harm to his subjects. In fact, a series of parliamentary acts of resumption were necessary to try to undo the damage which his exercise of patronage had done to the substance of monarchy.³

-
1. R. L. Storey, The End of the House of Lancaster (London, 1966), 31.
 2. B. P. Wolffe, 'The Personal Rule of Henry VI', Fifteenth-Century England 1399-1509, eds. S. B. Chrimes et al (Manchester, 1972), 36.
 3. B. P. Wolffe, Henry VI (London, 1980), 11-12.

Henry began to exhibit signs of great precocity by his eleventh birthday and had to be reproved by the earl of Warwick. In November 1434, even before his thirteenth birthday, the council had to remonstrate with him over his eagerness to take over the reins of power. By the time the council began to hand over real power to him in 1435, therefore, they could have had no reason to believe he would not turn out a replica of his father. However, between the years 1444 and 1453 Henry presided over the liquidation of England's first overseas empire, and by his policies provoked the first significant revolt among his English subjects for three-quarters of a century.¹ His marriage to Margaret of Anjou in 1445 also proved to be disastrous in the long run.

Margaret had a very strong personality and she very soon dominated Henry's weaker one, her favourites became his, and for the first five years of their marriage her favour fell on William de la Pole, earl of Suffolk. He had risen to eminence without any great achievement to his credit during the king's minority. From about 1430 he became a member of Henry's minority council and from that time on he was rarely out of the king's presence.² His ascendancy was at its height in the second half of the 1440's, immediately before his impeachment in 1450.³ He exerted his influence at the centre of Henry's government by manipulating the royal prerogative and executive, and his dominance extended into those areas where he had territorial interests. As we shall see,⁴ he had the means to intimidate his weaker neighbours and his position at court

1. Ibid., 13-15.

2. Ibid., 223.

3. Griffiths, Henry VI, 585.

4. See below, pp.282-285.

protected him from the normal reprisals one might expect to follow such behaviour in another.¹

He intimidated Henry by his aggressive personality. He convinced him that his uncle of Gloucester was plotting to seize power aided by his wife Eleanor Cobham. Since the dissolution of the minority council in 1437, Gloucester had led a progressively dissolute and unstable existence. The year 1439 saw Gloucester's power virtually set at naught. His political eclipse was reflected in his infrequent attendance at council meetings, in the direction taken by English policy towards France, and in the pattern of royal patronage.² He had created diplomatic mayhem in Europe by carrying off and marrying Jacqueline of Hainault; eventually he cast her aside and married her personal maid Eleanor Cobham, who was accused, in 1441, of witchcraft and treason in encompassing the death of the king. By 1445 Gloucester was an anachronism, the victim of his own fluctuating personality. He alone remained as a witness to Henry V's ideals in an atmosphere of political hatred. He paid for it with his life.³ Men asserted that he had been murdered as he travelled to Bury St. Edmunds in 1447 to attend a council meeting; it is in fact more likely that he suffered a fatal stroke. Whatever the cause of his death, the duke of Suffolk's role in it was not forgotten, and Cade's rebels accused him of it in their 1450 manifesto:

Item, hit is an evy thyng that the good Duke of Gloucester enpechid of tresone by on ffalse traytour alone was so sone merderud, and never myzt

1. Storey, The End, 54.

2. Griffiths, Henry VI, 279.

3. E. F. Jacob, The Fifteenth Century (Oxford, 1961), 484.

come to answer. And the ffalse traytour Pole
 enpechid by all the comynealte of Ynglond ...
 myghte not be suffred to dye as lawe wolde.¹

During his relatively brief period as royal favourite Suffolk achieved almost every office of importance at the time. In 1445 he was the earl of Suffolk but in 1446 he was created marquis. He was chamberlain of England, captain of Calais, warden of the Cinque Ports and constable of Dover Castle. He also held various administrative posts such as chief steward of the duchy of Lancaster north of the Trent, and chief justice of Chester, Flint and North Wales. In 1447 on the death of Humphrey of Gloucester he secured the earldom of Pembroke with its Welsh lands. In 1448 he reached his apex of power and was created a duke.²

However, his nemesis was not far behind him. His meteoric rise was followed, eventually, by an equally meteoric fall. Suffolk roused the active hatred of the commons by so quickly gaining the king's trust. He was accused of leading Henry down a ruinous path over the French war; to this were added intimations of his complicity in Gloucester's fall. In January 1450 Adam Moleyns, Keeper of the Privy Seal, was lynched by an angry mob and as he died he made some damaging accusations against Suffolk. When parliament re-opened the duke tried to convince the commons of his innocence but completely failed. They handed to the Chancellor a charge of treason and demanded impeachment proceedings, accusing him of unwarranted, widespread violence and corruption. The accusation, in fact, accuses him of nothing worse than that of which any

1. Hist. MSS Comm., VIII, Appendix I, 266-267.

2. Griffiths, Henry VI, 112.

other magnate of the time was guilty: 'He hath purchased many grete possessions by mayntenaunce, and doon grete outrageous Extorsions and Murders; Mansleurs, Riottours and common openly noysed mysdoers.'¹ As we shall see,² maintenance and embracery were by no means uncommon. Why was it that it was accepted with resignation from others and greeted with such outrage from Suffolk? Clearly it was a matter of degree; degree of crime, but principally degree of the man who committed it. Suffolk occupied too high a rank to make these crimes permissible. The same commons which impeached Suffolk declared:

The honour, wealth and prosperity of every prince reigning upon his people standeth most principally upon conservation of his peace, keeping of justice, and due execution of his laws, without which no realm may long endure in quiet nor prosperity.³

Besides these crimes J. R. Lander adds more, stating that Suffolk had used and 'abused his position to bully, cheat and extort'. He habitually swindled the customs, terrorized the countryside and attempted to rob lesser men of their estates with pretended titles and perjured juries.⁴ For once Henry VI appeared to comprehend the seriousness of the situation but to save Suffolk from the outraged commons and the horrible traitor's death which inevitably awaited him, he banished him for five years. At the end of April 1450 Suffolk left England only to fall into the hands of the sailors of the Nicholas of the Tower. He

1. Rot. Parl., V, 181.

2. See below, pp.101-104.

3. Rot. Parl., V, 200.

4. J. R. Lander, Government and Community : England 1450-1509 (London, 1980), 187; see below,

was beheaded and his body thrown onto the sands at Dover.¹

Although the government was not swift with reprisals, they did follow the next year when the duke of Somerset began restoring royal authority in the south east after the riots of the previous twelve months. The sailors of the Nicholas served as scapegoats for all those who contributed to the capture and death of Suffolk. They were accused not simply of murder but also of high treason in ignoring the king's safe conduct and in accusing Henry of being incapable of governing the realm and punishing traitors.² Whatever the fate of the men of the Nicholas of the Tower (and, accused as they were of treason, there can be little doubt of it), Suffolk's murder was clearly an expression of the hatred of the majority of the people for him and the weaknesses of the government. It may also be seen as the first step in a wider plan for the overthrow of the government, if not the dynasty itself.³

Following close upon the murder of the duke of Suffolk came Jack Cade's rebellion in June 1450. This differed from other peasant revolts because it appeared as a movement with appeal to the thinking and educated opinion in the county and London. The composition of the revolt also differed substantially; the social position and occupations of the rebels revealed a picture of a body of peasants with a strong leaven of gentry, shopkeepers, and craftsmen.⁴ It further differed in

-
1. For a full description of the death of the duke of Suffolk see R. Virgoe, 'The Death of William de la Pole, Duke of Suffolk', B.J.R.L., 47 (1964-5), 489-502.
 2. Virgoe, 'The Death of William de la Pole', 498-499.
 3. *Ibid.*, 500.
 4. H. M. Lyle, The Rebellion of Jack Cade, 1450 (Historical Association Pamphlet, 1950), 19-21.

the fact that the 1381 grievances had been aimed at landowners but Cade's rebels demanded a reform of 'the wrongs and abuses of England's government' and the removal and punishment of the king's advisers and personal companions.¹

Jack Cade also called himself John Mortimer thereby implying a kinship with the duke of York who at that time was the epitome of probity and injured innocence. Cade's leadership was based, as was John Ball's seventy years before, on his skill as a propagandist. His manifesto embraced the grievances of several levels of society (as it would have had to have done to satisfy his multifarious followers), thus calling them together in a common enterprise.²

The rebels' manifesto persistently advised the king to 'avoyn from hym all the fals progeny and affynyte of the Dewke of Suffolke' and turn to the balanced and sensible advice of his 'trew blode of his ryall realme, that is to say, the hyghe and myghte prynce the Duke of Yorke ... the Duke of Exceter, the Duke of Bokyngham, the Duke of Norffolke, and his trew erlys and barons of his land, and he shall be the rychest Kyngge crystyn'.³ Throughout the document these evil counsellors were accused of misinforming the king to their own benefit and the ultimate destruction of the realm. For example:

they enforme the kyngge that the Comyns wolde ffurst destroye the Kynges ffreends and aftur hymeself, and thenne brynge in the Duke of Yorke to be Kyngge,

-
1. Griffiths, Henry VI, 628.
 2. Storey, The End, 63-64.
 3. J. Gairdner, ed., Three Fifteenth-Century Chronicles (Camden Society, 1880), 97.

so that by there false menes and lesynges they make hym to hate and dystroye his verry ffreendus and to cherysché his ffalse traytours that callen hem selfe his ffreendes.¹

They were also accused of avarice beyond the accepted norm when they 'wulle suffer no mane to coome to the Kynges presense for nor cause withoutune brybe whereas ther oute no brybe to bee'.² The rebels consistently avowed themselves loyal subjects driven to action through the perfidy of the men surrounding the king. In this we hear strong echoes from 1381.

The rebels' criticism of the government was, for the most part, well founded, and all of which they accused Suffolk and the other counsellors was justified:

ffor his lordez ern lost, his marchaundize is lost, his comyns destroyed, the see is lost, ffraunse is lost, hymself so pou that he may not for his mete nor drynk; he oweth more than evur dyd kyng in Ingelond, and zit dayly his traytours that bene abowte hym waytethe ...³

However, despite their professed desire for the well-being of Henry and the realm, they were then and always regarded as nothing less than rebels and traitors by those in authority. Cade had sympathizers in London and he and his rebels were welcomed by the mass of inhabitants, though only tolerated by a majority of the ruling patriciate.⁴ At first, support for Cade in London was aroused by general feelings of discontent rather than clearly defined anti-government policy. This partisanship

1. Hist. MSS Comm., VIII, Appendix I, 266-267.

2. Ibid.

3. Ibid.

4. Griffiths, Henry VI, 624.

died though when people realized that Cade's tactics involved danger to themselves and to their property.¹ Despite all his good intentions to limit disorder and destruction, it was beyond Cade's power to prevent the plundering and murder which took place.² This is what eventually led to the dispersal of the rebels. Those, including Cade, who were caught were executed as traitors; the rest returned to Kent.

With the death of the duke of Suffolk, Henry VI was compelled to find another favourite. There were some indications in the 1440's that Henry and his advisers were ignoring the duke of York as heir to the throne although his lineage automatically made him the heir male and the heir general. Instead the king was seen to favour the Beauforts, descendants of John of Gaunt and Katherine Swynford, the Hollands, descendants of Princess Joan, 'the fair maid of Kent', by her first marriage, and the Staffords, descendants of Thomas of Woodstock, the youngest son of Edward III. Without openly preferring one, Henry advanced all three. However, as we shall see, he did tend to favour the Beauforts.³ This was evidenced by his granting to the duke of Somerset the title of lieutenant and captain-general in Aquitaine and those parts of France not under York's rule. This was done in April 1443 during York's second term as lieutenant and was such an affront to the latter's dignity that it set him permanently against Beaufort and his friends in the council.⁴ This state of affairs should have immediately sounded a

-
1. M. I. Peake, 'London and the Wars of the Roses', B.I.H.R., 4 (1926-7), 46.
 2. Griffiths, Henry VI, 626.
 3. R. A. Griffiths, 'The Sense of Dynasty in the Reign of Henry VI', Patronage, Pedigree and Power in Late Medieval England, ed. C. D. Ross (Gloucester, 1979), 20.
 4. Jacob, Fifteenth Century, 467.

warning bell for Henry because, as J. R. Lander states, only a king of sound political judgement, who held a fair balance between the conflicting interests of his magnates, could hope to rule the great men and through them the country.¹ But Henry cared little for the squabbles of his magnates and he continuously failed to control them. This lack of interest made it that much easier for them to take up arms against each other in the settling of personal quarrels and to drag into their affrays their local gentry affinities; thus they destroyed the peace and quiet of the countryside and set the tone of violence and bitterness which typified the 1450's.²

iii The Rise and Fall of the Duke of York, 1450-1460

During the final two traumatic years of Suffolk's rule Richard, duke of York, was in Ireland. He had been deprived of the governorship of Normandy and sent as the king's lieutenant to Ireland in 1448. The French position was given to Somerset who proceeded to handle matters very ineptly. York's attempts to rectify the situation were greeted with little enthusiasm and he was driven further from the central administration. There can be little doubt that York deeply resented this treatment as well as his exclusion from the king's council by Suffolk. The knowledge that after Suffolk's death he would continue to be spurned by Somerset can have been of little comfort.³

1. Lander, Government, 178.

2. *Ibid.*, 181.

3. R. A. Griffiths, 'Duke Richard of York's Intentions in 1450 and the Origins of the Wars of the Roses', Journal of Medieval History, 1 (1975), 194-195.

In 1450 the duke of York was both heir male and heir general to the throne. Cade's manifesto demanding that Henry rely on his 'natural councillors' came at an opportune moment for him and he returned from Ireland. In fact, it is highly unlikely that he had any interest in or relations with the rebels or that he used their demands as his pretext for returning. He had reason to believe, however, that Suffolk and Somerset had been plotting to deprive him of the rights due him as heir apparent, and that after 1450 Somerset was planning to continue the scheme without Suffolk.¹ The Yorkist-Beaufort enmity which was the basis of most of the unrest between 1450 and 1455, arose not out of English domestic policy but out of the conduct of the war in France.² York's wealth, lands, royal blood, and particularly his connection with the vast Neville family and their allies gave him immense influence in English political circles. And, if a claim transmitted through the female line was valid, he possessed a better title to the throne than even his cousin Henry.³ The rivalry between Somerset and York was exacerbated in the years 1447 through 1453 by the latter's fears that he, as heir presumptive, would be disinherited through allegations of treason, in favour of the Beauforts.⁴ It was this influence and title which was behind most of his manoeuvring during the 1450's.

York began to plan retaliatory action against Somerset after his continued efforts to influence the king failed. He retired in frustration to his estates in the Welsh Marches where he and his followers

1. Lander, Government, 177.

2. Wolffe, Henry VI, 121.

3. Lander, Government, 177.

4. Wolffe, Henry VI, 121.

planned an armed rebellion. He counted on the support of riots and demonstrations in towns in the southwest, the Welsh Marches and East Anglia. The rebellion misfired however and he was forced to surrender to Henry at Dartford in 1452. He did attempt to turn the humiliating experience to his advantage by demanding that Somerset be imprisoned for bungling the Guienne campaign - it had fallen to the French the year before - but he was not successful in this. York rode before the procession to London and was compelled to swear allegiance to Henry at St. Pauls. This series of events left him more isolated than ever from his peers.¹

Shortly before the birth of Prince Edward in 1453 Henry VI succumbed to a mental illness which he had inherited from his maternal grandfather, Charles VI of France. There is some indication that this was catatonic in nature; in addition Henry became withdrawn and indifferent which are some of the symptoms of schizophrenia. However, it is difficult to make a precise diagnosis from a distance of five hundred years. It is now generally believed that his condition was induced by news of the defeat at Castillon indicating the loss of English Gascony and by implication Henry's own failure and the veracity of York's predictions. B. P. Wolffe believes the illness took the form of a depressive stupor. It lasted for eighteen months.²

The logical course of events now was to appoint the duke of York, as heir general, to the protectorship of the realm. However, the council

-
1. A. Goodman, The Wars of the Roses. Military Activity and English Society, 1452-97 (London, 1981), 21.
 2. Wolffe, Henry VI, 270.

were loath to do so and for seven months they prevaricated, refusing to admit the seriousness of Henry's condition or indeed the actuality of his illness at all. By the middle of February 1454, however, the question could no longer be evaded and York, with the assent of the council, acquired a limited commission to open parliament as the king's lieutenant.¹

It was inevitable that parliament would be faced with the decision of the moment, but as week succeeded week the problem became a matter of manoeuvre and counter-manoeuve by Yorkist sympathizers and the queen's supporters. The tide began to flow in York's favour when on 22 March the Lord Chancellor, Archbishop Kemp of Canterbury, died. Continued reports of the king's ill health finally combined with this to precipitate the proclamation of York as protector and defender of the realm on 27 March. The earl of Salisbury became the new chancellor 1 April.² However, York was hedged around by the same restrictions to his power which had so frustrated Humphrey of Gloucester in the early months of Henry VI's minority. His prime obligation was to defend the realm.³

Limited as he was in his administrative powers he had need of a sympathetic council, and as far as possible he tried to form one reminiscent of the minority years.⁴ There are differing opinions on his success in this. R. L. Storey feels he was largely successful;⁵ R. A. Griffiths, however, feels that he acted less as a reformer or restorer

1. J. R. Lander, 'Henry VI and the Duke of York's Second Protectorate, 1455-6', Crown and Nobility 1450-1509 (London, 1976), 75; Wolffe, Henry VI, 278.

2. R. A. Griffiths, 'Local Rivalries and National Politics : The Percies, the Nevilles, and the Duke of Exeter, 1452-55', Speculum, 43 (1968), 608-609; Wolffe, Henry VI, 280.

3. Griffiths, Henry VI, 730.

4. Ross, Wars of the Roses, 31.

5. Storey, The End, 159.

of good government and more as a 'proud magnate of royal blood, determined to capitalize on his opportunity to consolidate his own political and territorial power ... to advance the interests of his Neville friends, and, as far as was possible in a brief period, to secure his position for the future. His success was limited.'¹ The king eventually recovered in December 1454, but:

If Henry's insanity had been a tragedy, his recovery was a national disaster. While he was incapacitated, England had known for the first time since he fell under Suffolk's spell, the type of government most favoured by general contemporary opinion.²

In March 1455 Henry declared Somerset his faithful liegeman, but he compelled him and York to enter into recognizances for 20,000 marks each to keep the peace until 20 June.³

In April 1453 the duke of York had entered into an alliance with the powerful and prolific Neville family. This was seen as a chance to forward York's personal aims and assist the Nevilles in their quarrel with the cadet branch of the Percy family.⁴ It is clear that without their support York would have been even less successful than he was in his opposition to the court party in the early 1450's. Up until 1460 the peers stood aloof and it was they who mattered for it was they who commanded the military resources.⁵ Whatever York's reasons for his

-
1. Griffiths, Henry VI, 735-736.
 2. Storey, The End, 159.
 3. C. A. J. Armstrong, 'Politics and the Battle of St. Albans, 1455', B.I.H.R., 33 (1960), 8.
 4. Griffiths, 'Local Rivalries', 629.
 5. J. R. Lander, 'Marriage and Politics in the Fifteenth Century : the Nevilles and the Wydevilles', Crown and Nobility, 98.

actions following the first protectorate, lust for power or fear for his personal safety, Salisbury and Warwick stood by him. To be sure, once the die was cast at St. Albans there was no turning back; however, they probably backed him less out of family solidarity, hoping to force Lancastrian recognition of York's claims, than to strengthen their hand in the feud with the Percies.

The armed clash of 1455 can be seen as the culmination of the Somerset-York quarrel which had flared up again early in February 1455 when Beaufort's imprisonment was terminated (although it was rumoured that he had been smuggled out of the Tower as early as 26 January by the duke of Buckingham, Humphrey Stafford, and James Butler, earl of Wiltshire). Without doubt Somerset owed his reinstatement to royal influence but his release from bail and the dropping of the charge of treason was delayed for a month by his opponents. In recognition of his continuing position of favour, Henry took the captaincy of Calais from York and bestowed it on Somerset on 6 March.¹ Following this, events built up towards a climax. On 7 March Richard Neville, earl of Salisbury surrendered the great seal to Thomas Bouchier, Archbishop of Canterbury; on 15 March the earl of Wiltshire succeeded the earl of Worcester as treasurer; and on 19 March the order came to release Henry Holland, duke of Exeter from the prison where he had been confined for aiding in the dispute between Lord Egremont and Richard Percy, younger sons of the earl of Northumberland, and the two younger sons of Salisbury.² Shortly after these events York, Salisbury and Warwick left court; it is not difficult to believe that they were already determined

1. Armstrong, 'Politics and the Battle of St. Albans', 8.

2. Ibid., 9.

to gather an army. The official reaction to this was not to gather a retaliatory force but to call a special council at Leicester. One might reasonably suppose that the purpose of the council was to make some sort of settlement favourable to Somerset. The removal to Leicester was probably Somerset's idea. He was not a popular figure in London.¹

In reply to a reproving letter from the Chancellor, Warwick, Salisbury and York signed and sealed a letter which continued to profess their loyalty to Henry and insisted that the Chancellor denounce and excommunicate any who meditated harm to the king:

ye standyng the Fadre and Metropolitan of the Chirche of Englund, wol ... with all possible diligence, the censures of the Chirche, to be opened and leied at the crosse of Seint Paule within the Citee of London, and thurgh all the parties of this land ... uppon and ayenst all thaim that entende any untrouth, prejudice, hurt or derogation, ayenst th'estate, prosperite and welfare of oure said Soveraine Lord, or his said land.²

On 21 May Henry began his journey to Leicester planning to break at St. Albans. The three Yorkist lords wrote a letter to him from Ware. They had little to say except to justify themselves and to enclose a copy of their letter to the Chancellor, 'for somoche as we be not acertaigned whether oure said entent be by his Faderhood shewed unto youre said good grace or not'. They continued to affirm their loyalty protesting that they had been represented as disloyal by their enemies.³

1. Armstrong, 'Politics and the Battle of St. Albans', 13-14.

2. Rot. Parl., V, 281a.

3. Ibid., 281b.

Both armies in the battle appear to have been fairly equally matched although the Yorkists outnumbered Henry's troops by 1,000 men. The battle was short in duration lasting approximately three hours and the Yorkists almost continuously had the advantage. In that time the earl of Northumberland, Lord Clifford and the duke of Somerset were all killed. So we find that at last, for a time, the Yorkist faction was in a position to impose on Henry the view that their actions were directed not against him but against the traitors around his throne. In accepting these protestations the king automatically agreed, however tacitly, to be ruled by them.¹

After the battle parliament was summoned for 9 July by the Yorkist lords on Henry's behalf. At this convocation York, Warwick and Salisbury planned to lay the blame for the battle at the feet of certain scapegoats. The Yorkists also rehabilitated the memory of Humphrey, duke of Gloucester, and he became a type of political mascot for their cause.²

There has been much speculation over the years as to the reason for the duke of York's second protectorate in 1455-6. Earlier historians claimed that the king had lapsed into insanity again; however, J. R. Lander points out that there is no documentary evidence to substantiate this. In June 1455 the dean of Salisbury, one of the most eminent physicians of his day, was summoned to Windsor; however,

-
1. For a full, detailed description of the first battle of St. Albans see Armstrong's definitive article 'Politics and the Battle of St. Albans, 1455', B.I.H.R., 33 (1960), 1-72; this reference, ibid., 49.
 2. Armstrong, 'Politics and the Battle of St. Albans', 62.

whatever the difficulty Henry was well enough personally to attend parliament on 9 July.¹

When parliament reassembled on 12 November 1455 it was found that Henry was not there to open it and York had been appointed his lieutenant to do so only the day before. By the end of the preceding October there had been rumours throughout London that the king was once more incapacitated. Therefore the second day of the sessions found the commons petitioning the lords to appoint York protector again. They repeated the petition again two days later, on 15 November, and it was carried. York accepted the patent from 19 November and the cause was clearly stated to be the illness of the king. B. P. Wolffe feels that these are sufficient grounds to indicate that Henry was once more afflicted with his original complaint.² York was given the protectorship on the same limited terms as in 1454 except that now he could only be dismissed by the king in parliament and his salary was increased. Once again he did not gain the powers of the regent. On 25 February 1456 Henry came in person to parliament to relieve York of his protectorate.³ It is not beyond the bounds of reason to speculate that York's second protectorate was another attempt by him to secure permanent control of the government and perhaps even future possession of the crown.⁴

During the four years before the ultimate Yorkist coup d'etat in 1461 there was a personal government organized by the queen. York, in

-
1. Lander, 'Henry VI', 78-79.
 2. Wolffe, Henry VI, 298-299.
 3. Lander, 'Henry VI', 84 and 90.
 4. *Ibid.*, 93.

outward appearance reconciled to Margaret, predominated in the council.¹ Throughout this period, however, slanderous reports were spreading concerning the queen who had, since the birth of her son, become a force to be reckoned with. While York had claimed the protectorate she had claimed the regency. By ignoring her the lords may well have given York the impression that he could, by sheer determination, impose his will on them. There is no evidence, however, that any widespread group of people backed his banner; mostly he was supported by men, ranking from the greater gentry to simple esquires, who had profited from a long-standing connection with his estate and household administration.²

In the summer of 1459 the "Great Council" met at Coventry. On 20 November the "Parliament of Devils" met and passed Acts of Attainder against the Yorkist leaders. *Attainder against* York and his two eldest sons, the earls of March and Rutland, Warwick, Salisbury and his wife, two of their sons, and sixteen other men. They were condemned to be hanged, drawn and quartered.³

In September 1459 York at Ludlow, Warwick at Calais, and Salisbury at Middleham were sufficiently alarmed by the queen's military preparations to act once again. The royal forces were defeated by Salisbury at the battle of Blore Heath.⁴ In October York, Warwick, and Salisbury were arrayed against Henry near Tewkesbury. The king's army advanced and the Yorkists crossed the Severn with Henry in pursuit. From Ludlow

-
1. Jacob, Fifteenth Century, 514.
 2. Lander, Conflict and Stability, 85-86.
 3. *Ibid.*, 80; Goodman, Wars of the Roses, 25.
 4. *Ibid.*, 26-27.

they addressed a letter to Henry protesting their loyalty. They drew up ranks on 12 October but once again realized, although a salvo was fired across the royal ranks, that they were in a weaker position. The Yorkist leaders left precipitately. York made his way to Ireland with Edmund, earl of Rutland; the earls of March, Salisbury, and Warwick managed to reach Calais.¹

Within a few months of their flight Warwick, Salisbury and March returned to England and marched to London collecting followers en route. They claimed that they simply wished to remove the king's disreputable ministers. They dared not alienate popular opinion by advocating the deposition of the anointed king.² Continuing on they proceeded to Northampton where they met again with the Lancastrians and attempted negotiations; and once again they failed and battle was joined. Owing to the treachery of Lord Grey of Ruthin the royal forces were defeated and Henry was taken prisoner. He was returned to London and was held in the bishop's palace.³

It was not until September 1460 that York returned to England. He arrived at Westminster after parliament had been convened in October. Seizing the moment, he strode into the lords' chamber and laid his hand on the empty throne, awaiting the acclamation which never came. This behaviour angered and confused Salisbury and Warwick who had reaffirmed their loyalty to Henry on their return from Calais. To be sure some members of York's entourage had hoped to make him king as early as 1450,⁴

1. Ibid., 29-31.

2. Griffiths, Henry VI, 856-857.

3. Lander, Conflict and Stability, 80.

4. Ibid., 81.

but it seems fairly clear that York himself never considered usurpation as a serious option before 1460. A few days after his action at Westminster he openly proclaimed his right to the throne and threw the lords into a panic. In order to evade the issue they attempted to pass it off into the justices who refused to become involved thus forcing them to act. The result was the Act of Settlement. Therein York and his issue were recognized as Henry's true heirs; the existence of the Prince of Wales was completely ignored.¹

Needless to say, Margaret and many of the magnates were violently opposed to this and York was compelled to fight for his newly gained rights. The queen mustered troops with the aid of many loyal peers between York and Hull and her opponents were forced to march north to encounter them. At Wakefield on 30 December 1460 York met death and defeat. Lord Clifford killed the earl of Rutland in the pursuit, and ^{Salisbury} was executed;² the duke of York's head, surmounted with a paper crown, was placed over Mickelgate Bar at York.

What was it that compelled Richard of York so to disturb the peace of the 1450's? How far were his actions for personal advancement and how far was he trying to restore order to the chaos of Henry's personal rule? It is a question which has puzzled historians for many years. There is certainly no lack of documentation to support each option.

The 'Wars of the Roses' were the inevitable climax, however unwelcome, to the insufferable period of Henry VI's incompetent personal rule. However, it seems unlikely, as some historians have suggested,

1. Goodman, Wars of the Roses, 41.

2. Ibid., 43.

that the years pre-1459 were the result of York's pursuit of the crown, primarily because his behaviour was not the precipitate manner of one who felt his rights overlooked and forgotten. His frustrated actions resembled more those of a man seeking to save and protect something he cared for. This would certainly explain his constant protestations of loyalty which, however politic, did suggest a certain retention of original purpose. Psychologically, from 1450 to 1455, and perhaps even until autumn 1459, York did not display the competitive traits one might expect from a man who sought a rightful inheritance. If he indeed sought only to protect Henry and England from those who would destroy them, then his rise to prominence in 1450 was a blessing and his fall in 1460, however self-inflicted, was truly a tragedy.

iv The First Reign of Edward IV, 1461-1470

After the battle of Wakefield and the defeat of the duke of York, Margaret of Anjou and her triumphant Lancastrian army marched south and as they marched they ravaged the countryside, looting and pillaging. The earl of Warwick determined to intercept them at St. Albans but his scouts were so ineffective that the royal army had struck before he had adequately disposed his troops. Even so, Warwick might have won had not he been betrayed by a man named Loveless. The additional significance of the battle was that Henry VI passed once again out of the Yorkists' hands and into the queen's. Margaret continued her march south to London but paid the price of her uncontrollable army. The citizens refused to open the gates unless she promised that there would be no plundering. Unable to guarantee this she sensibly withdrew the greater part of her forces to Dunstable. By so doing she gave the Yorkists

enough time to regain the initiative.¹

Two weeks before the second battle of St. Albans, Edward, earl of March, had defeated a part of the Lancastrian forces at Mortimer's Cross in Herefordshire. From there he marched to join Warwick; they met somewhere in the Cotswolds and proceeded together to London. The failure of Margaret to gain entry to London exposed her 'military weakness and created in the south a political climate for the acceptance of Edward's usurpation'.² Arriving ten days after St. Albans, on 28 February 1461, the gates were immediately opened to the Yorkists. Margaret promptly left Dunstable and marched her army north, thereby leaving the situation still unsolved. Although they were in control of London, the small force of Yorkists was in a difficult position. Technically they were rebels and traitors, and they were by no means victorious which might have ameliorated the circumstances; Margaret was retreating but it was only a tactical retreat. Probably largely to shield themselves from the punishment due traitors, this small band of men, led by the earl of Warwick, proclaimed Edward king. Still the situation was not solved, the Lancastrians had yet to be defeated. So the new king and his army marched north, and on 29 March 1461 met them at Towton. In the greatest and most desperate battle of the 'Wars', fought in a blinding snowstorm, the Lancastrians were finally and utterly defeated.³

1. Lander, Conflict and Stability, 88-89.

2. Goodman, Wars of the Roses, 53.

3. Lander, Conflict and Stability, 89-90.

Now Edward, in indisputable control of the central administration, vowed to rebuild the land which had suffered 'unrest and inward war and trouble unrightwiseness, shedding and effusion of innocent blood, abusion of the laws, partiality, riot, extortion, murder, rape and vicious living'.¹ These wrongs were laid at the door of the Lancastrian regime. Stubbs claimed that the general and prolonged desire for peace was thwarted by violence generated by the policy adopted by Henry and his ministers. The king might at one time have commanded the affection of his subjects but he did no longer and they mistrusted his wife and ministers. The house of York, on the other hand:

was strong in the character and reputation of duke Richard, in the early force and energy of Edward, in the great popularity of Warwick, in the wealth and political ability of the family party which he led : but its great advantage lay in the weakness of the house of Lancaster.²

The policy of the Lancastrian government had certainly been self-interested; but the lack of peace can hardly be laid entirely at their feet. Richard of York was the first to make a violent move and, for the most part, Henry's troops were on the defensive. Right up until the battle of Towton the Yorkists were seen as being in the wrong and Margaret and her army held the upper hand.

Although Edward was now king his position was only minimally more secure than it had been before Towton. He had to resolve a series of interrelated problems in order to obtain a firmer grasp on his position.

1. Ibid., 161-162.

2. W. Stubbs, The Constitutional History of England in its Origins and Development, 3 (Oxford, 1880), 205.

First it was imperative that he widen the Yorkist bases of power, at that time dangerously narrow. Edward had been made king by a faction, and the final decision was taken by a fragment of that faction. Most of his supporters were late converts, men who had not been prepared to support his father, and they made him king as the way out of a desperate situation. J. R. Lander believes that even Warwick was unwilling to crown Edward but was left no other choice by the deceptions of the duke of York.¹ In addition, he had to repress the continuing disorders in the north and west, and finally gain foreign recognition of his position in order to prevent foreign interference in domestic policy.² He began his work in these areas at his first parliament in 1461. When Edward became king de lege as well as de juro and de bello he went far in eliminating his problems. With parliamentary recognition it was treason for any man not to support him and so his power base widened; equally, and ironically, it also transformed the various disorders to treason, and no man courted forfeiture without thought; finally, with the support of his government he had a better chance of gaining the recognition of foreign governments.

Despite his many problems, Edward was king and he resolved to work to reinvigorate the monarchy and the floundering legal system. He showed himself slightly less generous in the use of the pardon than his predecessor but compared favourably with Henry VI as a clement king, ready to temper justice with mercy.³ The reign began promisingly with a public statement of his intention to act vigorously against lawlessness.

1. Lander, 'Marriage and Politics', 104.

2. Lander, Government, 224.

3. C. D. Ross, Edward IV (London, 1974), 390.

He was concerned to act against treason, riot and major disturbances of the public peace. He did not seek to do so by strengthening the law-enforcement agencies by new legislation but by using existing machinery, infusing new life into it through personnel changes and personal backing.¹

This latter he attempted to do by restructuring the composition of the royal council. During the days of Henry VI's minority the council had exercised the royal prerogative for the infant king. In the months of York's two protectorates the council lacked the time to change its complexion, but under Edward a different type of body evolved. Lawyers were in the majority among the conciliar ecclesiastics, and they were prominent on judicial or diplomatic commissions. Led by George Neville, archbishop of York, they formed the principal group in the council. Most of the lay officials came from the ranks of the county landowners. The council never had a definite, nominated membership, even the most important councillors were away from the king's side for extended periods for various reasons. Loyalty and ability were the only criteria of service.²

There is a great deal to be said for the composition of the new council. Edward was primarily concerned with justice and the correction of the many and diverse faults in the system. Since the major offenders on this score were the very magnates he asked for support, to get them on his side in this was a feat of much skill. The council's new composition allowed it to be more work-a-day, to be used by the king for the

1. Ibid.

2. J. R. Lander, 'Council, Administration and Councillors, 1461 to 1485', B.I.H.R., 32 (1959), 211, 212-213, 218.

quantities of mundane business which passed through his hands daily. It was doubly useful in this area because it circumvented the methods of the privy seal office, and its dictates carried the immediate force of the sign manual or signet.¹ However, although there were groups within the council advocating different policies, it was the king who had the last word on all matters great and small.²

Edward's main interest in the early years of his reign was the resuscitation of a workable and easily accessible judicial system. The inherent difficulties of keeping the peace were due to the rapid and widespread deterioration of public order throughout the twenty years of Henry VI's personal rule. C. D. Ross feels that the first few months of Edward IV's reign probably contained the highest level of disorder than any other period in the fifteenth century.³ Frequent commissions of array in the spring and summer of 1461 testify to Edward's fears of insurrection and invasion.⁴

The reign began promisingly with a public statement of his intentions to take vigorous action against lawlessness. By necessity he was concerned to act quickly against treason, riot, and major disturbances of the public peace. In order to accomplish this he made extensive use of three weapons : the courts of chivalry under the constable of England, commissions of oyer and terminer, both general and specific, and his own personal activity in law enforcement. The constable's court was summary, acting without the use of indictments or the benefit of trial by jury.

-
1. Chrimes, Lancastrians, 96.
 2. Lander, 'Council', 216.
 3. Ross, Edward IV, 395-397.
 4. Goodman, Wars of the Roses, 56.

The commissions of oyer and terminer were of wider scope and greater importance than the constable's court. They were widely and frequently used as a weapon to deal with major disorders. They had the advantage of speed and efficiency, and they were more successful in terminating cases than either the King's Bench or the Common Pleas.¹

Over and above these was the personal activity and support of the king which was 'a vital element in the entire process of law enforcement'.² In this role Edward reverted almost entirely to the peripatetic practices of the early Angevin monarchs, visiting and doing justice in all parts of his realm.³ He took action as and where it was necessary. For example, in 1464 he went on a widely extended progress that stretched from Gloucestershire to Cambridgeshire, and Kent to Yorkshire. In later years he continued this sort of practice.⁴ He realized very early that this type of justice, available as it was to all, would go far in decreasing the disorder which followed the Yorkist succession. In the following years when the Lancastrians were making continued attempts at reclaiming the crown, he continued to travel around finding that, by continually showing himself to the people and assuring them of his concern for their problems, law and order were more easily maintained.⁵

Throughout these years, although the house of York had secured its hold on the crown, the Neville family shadowed the throne. George Neville, bishop of Exeter and later archbishop of York was Chancellor of

1. Ross, Edward IV, 395-397.

2. Ibid., 399.

3. Lander, Conflict and Stability, 102.

4. J. R. Lander, 'Edward IV : the modern legend and a revision' Crown and Nobility, 164.

5. J. G. Bellamy, 'Justice under the Yorkist Kings', American Journal of Legal History, 9 (1965), 136.

the realm and John Neville, marquis Montagu, ruled the north. But it was Richard Neville, earl of Warwick, the 'Kingmaker', who was the strongest. He managed the military operations and insisted on managing Edward's foreign policy as well. All three of these men, and in particular the latter, felt themselves secure in their positions, but Edward was not content to reign rather than rule and he had no intention of becoming subject to overmighty lords as had Henry VI.¹

He slowly began to assert himself as a force to be reckoned with although Warwick refused to see this. Edward's first serious act of defiance occurred in 1464 during one of his progresses. He married Elizabeth Wydeville at Grafton Regis in Northamptonshire. She was the widow of a minor Lancastrian supporter by whom she had borne two sons; she was also several years older than Edward. This marriage, performed in deep secrecy, proved to be of far more importance than anyone realized. Since Edward had come to the throne, Warwick had been negotiating with Louis XI of France for the marriage of his protégé. He had reached the delicate stage of financial settlements when Edward broke the news of his secret marriage. It was not so much the actual marriage which annoyed Warwick but, being presented with a fait accompli, he was humiliated as a statesman before the French. His greatest desire had been an alliance with France against the Burgundians.²

'Warwick saw himself not as a representative member of the baronage, but as a unique individual limited only by his capacity to create and exploit opportunities.'³ With a self-opinion of that type it is not

1. P. M. Kendall, The Yorkist Age (London, 1962), 480.

2. Jacob, Fifteenth Century, 550.

3. Kendall, The Yorkist Age, 480.

difficult to see how galling Edward's marriage and the subsequent preferment of his wife's family could be. By the middle of 1467 the Wydevilles had arranged and completed seven advantageous matches with the houses of Buckingham, Exeter, Norfolk, Arundel, Essex, Grey of Ruthin, and Herbert. Considered as upstarts by Warwick, Edward saw only their willingness to support him, and it was this that he valued.¹ Unfortunately, by the mid-1460's Edward was not able to endow the family on the scale of the early years.² As a result, he granted to his new family many of the offices formerly held by the leading families of the realm. It was this last which angered Warwick the most although it was not enough to drive him into open revolt. His discontent began in 1465 but it was not until four years later that it finally found expression.

In 1469 Warwick rose in revolt and took Edward's disaffected brother George, duke of Clarence, with him. Their plan was to raise the country, particularly the north, by disseminating the rumour that Edward was a bastard and that the true king was George. This was entrusted to several lieutenants notably Sir John Conyers who went by the name of Robin of Redesdale.³ Edward was captured at the end of July by Archbishop Neville. The king put on the best face and dutifully signed everything Warwick gave him. However, while he was imprisoned he was able, by subterfuge, to gather around him friends and subjects with whom he proposed to march to London. This he accomplished.⁴

1. Lander, 'Marriage and Politics', 110 and 112.

2. M. A. Hicks, 'The Changing Role of the Wydevilles in Yorkist Politics to 1483', Patronage, Pedigree and Power, 65; see below, pp.82-83.

3. Goodman, Wars of the Roses, 67.

4. J. Gillingham, The Wars of the Roses, (London, 1981), 164-165.

Although Warwick and Clarence appeared to have become reconciled to Edward they rose up again in March 1470. This time they were forced to fly the country and it became expedient at this stage for Warwick and Clarence to ally themselves with Margaret of Anjou who was living the life of an exile at the French court. Louis XI agreed to help them. 'Warwick was a kingmaker by necessity. The amazing volte-face which made him an ally of Margaret and his other old enemies was the last resort of a ruined man.'¹ The negotiations were long and agonizing for both sides but eventually a settlement was reached. Warwick was to restore Henry VI to the throne aided by a fleet, money, and soldiers supplied by Louis. In return for this Warwick promised a treaty against the Burgundians. His youngest daughter, Anne, was to marry Margaret's son, Edward, who would accompany Warwick.²

His landing in England shortly afterwards drove Edward, a penniless refugee, out of the country to Burgundy. He was accompanied by, among others, his brother, Richard of Gloucester, and his best friend, William, Lord Hastings. Warwick's first job was to retrieve Henry from the Tower where he had been incarcerated for ten years, and put him on the throne. Henry had very little idea what was happening and it was Warwick who ruled the country.³

Henry reigned for only a short time for Edward made use of his alliance with Burgundy to obtain mercenaries and ships. 'In the yere of grace 1471 ... the ij day of Marche ... our sovereign Lord Kyng Edwarde the IV ... with ij thowsand Englyshemen... entendynge to passe the sea,

1. Storey, The End, 193.

2. Goodman, Wars of the Roses, 74.

3. *Ibid.*, 75.

and to reentare and recouar his realme of England ... entred into his shipe, afore the haven of Flisshinge, in Zeland.¹ Although his ships sighted land in East Anglia they were unable to land there and were forced north to Ravenspur. Edward began to march south gathering support as he went and he was largely unopposed. This he achieved by deciding that 'he, and all thos of his felowshipe, shuld noyse, and say openly, where so evar thay came, that his entent and purpos was only to claime to be Duke of Yorke, and to have and enjoy th'enheritaunce that he was borne unto, by the right of the full noble prince his father, and none othar.'² Warwick waited for him at Coventry but when Edward and his forces arrived there he refused to come out and meet him. Unperturbed by this Edward proceeded south to London where the gates were opened to him as they had been ten years before.

He was able to stay with his wife and new-born son only a short time for word came that the Lancastrians were not far off. He marched to Barnet to meet them. The Arrivall describes the battle on 14 April 1471. Edward, it says, decided to join battle despite a heavy mist which obscured much vision. He advanced with banners flying and trumpets blowing; he attacked:

firste with shotte, and than and sone, they joyned and came to hand-strokes, wherein his enemies manly and coragiously receyved them ... whiche ioynynge of theyr bothe batteyls was nat directly frount to frount, as they so shulde have ioyned ne had be the myste, whiche suffred neythar party to se other, but for a little space, and that of lyklyhod cawsed the bataile to be the more crewell and mortall.³

-
1. The Historie of the Arrivall of King Edward IV. A.D., 1471 (Camden Society, 1837), 1-2.
 2. *Ibid.*, 4.
 3. *Ibid.*, 19.

One of the major causes of the Lancastrian defeat was this mist, for, due to the lack of visibility, the royal troops swung around and began attacking what they took to be a flank of Edward's army and which was, in reality, part of the earl of Oxford's forces. The attackers mistook the Oxford star for Edward's sun-in-splendour. In this battle Warwick and his brother John, Marquis Montagu, were killed. In the death of the former Edward was rid of the man who had been both his friend and mentor, and his enemy.

The same day as the battle of Barnet, Margaret of Anjou landed in the south of England and began to march north to Gloucestershire. Two weeks later, on 4 May, Edward confronted the Lancastrians again, this time at Tewkesbury. The victory for him on this occasion was more complete, for Edward, the heir of Lancaster, was killed with many other nobles. Margaret and the other women were found hiding in sanctuary at a nearby abbey. With her was Anne, second daughter of Warwick, and widow of the young Lancastrian prince.

From Tewkesbury Edward marched to Coventry where word reached him that the Bastard of Fauconberg was ravaging the Kentish countryside on his way to London.¹ This man was Thomas Fauconberg, an illegitimate son of William Neville, Lord Fauconberg, uncle of both Edward IV and the earl of Warwick. It was lord Fauconberg who had been with Henry VI's entourage on the march to Leicester which had ended with the first battle of St. Albans in 1455. 'The bastard had assembled greate people, and, bothe by land many thowsands, and, by water with all his shippes ful of people, he came afore London, thinkynge to robbe, and spoyle, and do

1. For full details of the Fauconberg rebellion see C. F. Richmond, 'Fauconberg's Kentish Rising of May 1471', E.H.R., 85 (1970), 673-692.

almaner of myschefe.'¹ His plan was to take over London and place Henry back on the throne (he had been returned to the Tower when Edward had entered London in early April); after this he and his followers were 'to passe pesceably thwrghe the citie, as they sayd, without any grevaunce to be done to eny parson; upon th'entent from thens to goo towards the Kynge, where so evar they myghte finde hym, hym to distroy and all his partakers, in qwarell of the sayde Henry, yf they myght have of hym the ovarhand'.²

Fauconberg proved to be a far greater menace than anyone had anticipated. He was supported by Kentish men who were notoriously discontented and troublesome, they came 'with theyr good wills, as people redy to be appliable to suche seditious commocions'.³ The citizens of London, supported by the earl of Essex, defended the city against Fauconberg. Edward led his troops towards London and when the rebels heard of his approach they fled back towards the Kentish coast. The Bastard sued for a pardon for himself and his fellowship in token whereof he handed over all his ships, leaving his frightened supporters high and dry. Edward 'sent thethar his brothar Richard, Duke of Gloucester, to receyve them in his name, and all the shippis; and so he dyd the xxvj day of the same monithe [May]; the Kynge that tyme beinge at Cantorbery'.⁴

It only remains to be said that on 23 May 1471 Henry VI died in the Tower. There is much controversy as to the manner of his passing,

1. The Arrivall, 33.

2. *Ibid.*, 34.

3. *Ibid.*, 33.

4. *Ibid.*, 39.

some saying, as The Arrivall, that he died of 'pure displeasure, and melencoly' at the news of the defeat of his army and the death of his son.¹ Others, notably Lancastrian supporters and Tudor historians, claim he was murdered by the Yorkists, the most popular candidate for this deed being duke Richard of Gloucester. In any case his death certainly was not mourned by Edward and he ordered Henry to be buried in the abbey of Chertsey. It was not until Richard III was on the throne that his body was removed to St. George's Chapel, Windsor for a more fitting interment.

The 'Wars of the Roses' were not lawless squabbles among baronial factions as, for example, during the reign of Stephen in the twelfth century. They centred on the most vital political issue in that century or any other; in whom, and therefore, in what family, was the sacred power of kingship to be vested?² It is important to comprehend this important difference, to understand that there was 'method in their madness'; this will make it easier to understand that the quarrels of the Pastons, however much smaller in scale, were equally important to the men and women fighting them, and that their outcome affected the lives and fortunes of the protagonists as much as any of the larger quarrels affected the magnates.

1. Ibid., 38.

2. Chrimes, Lancastrians, 177.

2. The Legal Machinery of Fifteenth-Century England

The history of crime, if 'history' is an appropriate word for continuation, is a history of institutional expedients all sensible in their day, all in the long run tending to make the subject nobody's business.¹

It was the sensible institutional expedients which composed the legal machinery of the fifteenth century. Tracing the evolution of the various offices and courts from amorphous bodies to distinct and separate entities can aid in the understanding of the types of crimes and the remedies available and also why the solutions did not always work. However, it was not solely defects in the common law system which caused the failure to punish crime adequately but also the abuse of it by the great and unprincipled. Local officials were corrupt and grasping, easily influenced by their mighty benefactors, and juries were often tools of the unscrupulous. The crimes of maintenance, champerty, and embracery were prevalent and the common law was simply not equipped to deal with them.²

In the England of the later middle ages, public order was the most serious problem the monarch had to contend with.³ He looked to the common law to define his prerogatives and expected it to uphold them. For the most part it was successful in this.⁴ Although the king frequently

-
1. S. F. C. Milsom, Historical Foundations of the Common Law (London, 1969), 353.
 2. C. Ogilvie, The King's Government and the Common Law (Oxford, 1958), 36.
 3. J. G. Bellamy, Crime and Public Order in England in the Later Middle Ages (London, 1973), 1.
 4. M. Blatcher, The Court of King's Bench 1450-1550 (London, 1978), 100.

acted as though he was above the law this was not the case. Despite its many shortcomings the common law had the ultimate word.

Because the Common Law partook of the nature of the eternally, universally, and immutable binding ordinances of God, and was indeed a reflection of them, or a part of them, it was to be observed by Princes as much as by subjects.¹

The structure of criminal jurisdiction in the fifteenth century evolved from the Anglo-Saxon and Norman concepts of justice. These were based on the idea, among other things, of the King's Peace, and thus we see why in theory it was the monarch who dictated its substance and enforcement. In practice, however, it was ^{royal bureaucrats, local authorities, and central court justices who ran} the machinery of law.² The monarch at this time was still the final authority and as such it would not have done to antagonize him by blatantly usurping his power in the field of law enforcement. It was essential that the king continue to interest himself in public order.

However well designed the system for maintaining law and order, little could be achieved if the king was not a dominating force within the state, and if he did not interest himself personally and fairly often in the suppression of crime.³

i Local Administration

The central courts of the fifteenth century can be seen as the culmination of centuries of legal development. Just as the feudal system of earlier centuries had been transformed by the requirements of the

1. Ogilvie, King's Government, 3.

2. B. Hanawalt, Crime and Conflict in English Communities 1300-1348 (Cambridge, Mass., 1979), 223.

3. Bellamy, Crime and Public Order, 199.

changing times so the legal system of a less localized England had been gradually drawn inward by a strengthening central government. The local administrative system was built on the tenth-century foundations of the vill, hundred, shire, and borough.¹ It blended easily into the social structure and was only occasionally disturbed by the appearance of a commission of oyer and terminer which acted as a powerful and ruthless reminder of royal prerogative for the suppression of those crimes such as treason and rebellion thought to be too important for the local administrators to handle.²

The vill was the smallest unit of local government. It was quickly superseded by the various courts which sprang up. The vill was most remarkable for its place in police procedure.

It ought to attend the court held by the Justices in Eyre. It ought to attend the sheriff's tourn. It ought to attend the hundred and county courts whenever it has any crime to present. It must come at the coroner's call to make inquest when a dead man's body is found.³

The vill was also required to ensure that all its members who ought to have been in a frankpledge were, and it was bound to arrest malefactors within its boundaries and to raise the hue and cry. It was also the custom to entrust prisoners to the care of the villata and if they escaped, to amerce the vill. Thus the men of the neighbouring townships watched the church if a prisoner sought sanctuary.⁴ By the thirteenth century

-
1. H. M. Jewell, English Local Administration in the Middle Ages (Newton Abbot, Devon, 1972), 8.
 2. A. Harding, The Law Courts of Medieval England (London, 1973), 98.
 3. T. F. T. Plucknett, A Concise History of the Common Law (London, 1956), 86.
 4. Ibid.

the vill ceased to be of much legal importance and the emphasis was more and more laid upon the various local and central courts.

The hundred was an old system of land division. The 'hundred' was a hundred hides, and the hide was reckoned as the amount of land capable of supporting a family. A dozen or so hundreds made up a county. Pre-Conquest, the hundred reeves were lords for the manors around which the hundred courts developed.¹ Twice a year the hundred court held an especially full meeting to which the sheriff or his deputy came. He was met by the reeve and four best men of every vill in the hundred who were to undergo a searching examination at his hands. To that end and especially for these meetings twelve free-holders were appointed to receive the presentments of the vills.²

In later years the judicial importance of the hundred courts came to rest in two spheres : the frankpledge system which separated the criminal and civil business of the hundred, and the representation of the hundred by jury before itinerant justices.³ By the close of the middle ages the hundred was reduced to insignificance by the powers of the justices of the peace.⁴

The shire was the oldest of English legal institutions. Its origins lay far back in the Anglo-Saxon period. The shire court was the place where coroners and knights of the shire in parliament were elected, the king's sheriffs and escheators sworn in, and where public business

-
1. Harding, Law Courts, 17-18.
 2. Plucknett, Concise History, 89-90.
 3. Jewell, Local Administration, 50.
 4. Plucknett, Concise History, 90.

was transacted for all to see and hear.¹ The county court was a greater and more solemn body than the hundred but was not really superior to it. The proceedings of the hundred were not subject to review at the county court which, like the hundred, was a court of first instance.² The jurisdiction of this court seems to have been limitless in the early times. Civil and criminal cases, pleas common and royal, were all within its scope and power.³

The borough system of government differed from that of the county. This was to an extent due to the fact that the boroughs had become, for the most part, autonomous units fairly early. Thus they fended for themselves legally, and clung tenaciously to the rights and privileges set out in their various charters. By the end of the middle ages the boroughs had become, to a degree, enclaves of oligarchic self-government, administratively independent while the rest of the county recognized the powers of the shires and hundreds.⁴

Those towns which had charters obviously had more independence than those which did not. The common law courts of the former obtained varying degrees of competence regarding their sphere of jurisdiction. Some borough courts acquired hundredal or comital competence regarding pleas arising within their boundaries by being excluded by special privilege from suit at hundred or county courts.⁵ The duties of the boroughs apart from judicial proceedings included the enforcement of frankpledge,

-
1. Harding, Law Courts, 116.
 2. Plucknett, Concise History, 90.
 3. *Ibid.*, 93.
 4. Jewell, Local Administration, 56.
 5. *Ibid.*, 135.

raising the hue and cry, arresting suspects, keeping watches, and supervising the assize of arms.¹

Boroughs which acted as trading centres needed special jurisdiction covering illegal dealings, foreign traders, and standard weights and measures. Fair courts were held to convenience traders and merchants. These courts of piepowder were held by borough officials or the lord's steward. Until 1466-7, the judges were not these men but were merchants at the fair. Their competence extended to all spheres save crown pleas and land pleas. A borough which did not have a fair still had to provide summary justice for traders. This special mercantile law declined from the fifteenth century as the common law gradually swallowed up smaller commercial regulations.²

There existed also at this time franchises which gave to individuals or corporations jurisdiction over a certain area:

Franchises were part of the framework of English local administration in the middle ages, being shires, hundreds, boroughs and small areas in which the normal functions of government were exercised by officials appointed by a private person or corporation.³

These took many forms but perhaps one of the most common was the right to hold one's own view of frankpledge and so a private tourn.⁴ Many franchisal courts were confined in their jurisdiction to specific types of business in limited areas. However, within this definition many

1. Ibid., 61.

2. Ibid., 133-134.

3. Ibid., 66.

4. Ibid., 62.

franchises were of hundredal competence. The important factor of franchises was not their competence but the fact that they were given by the King's grace as they were his in origin.¹

ii Local Officials

At the lowest levels of local administration the officials were for the most part villagers. Higher up, the officials were more often appointed by the central administration. By what right did they administer and why were they needed?

The king's government in medieval England was effected through co-operation between officials employed in the central administrative organs and officials practicing in the locality. The development of the system was, and herein lay its strength, a compromise to satisfy the demands of monarch and governed ... The main officials in local administration were appointed by the crown and removable by the crown, given or deprived of powers according to the crown's interests and supervised by other crown officials.²

It was very important for the monarch to retain control of the local officials because it was through them that he raised military levies for foreign or domestic wars and it was their opinions, to an extent, which coloured those of the people in their spheres of influence. These various officials included sheriffs, coroners, and keepers or justices of the peace for the county (though these *were appointed* at the central level of government), bailiffs in the hundreds, constables in the vills, and capital pledges in the tithing groups.³

1. Ibid., 65 and 127.

2. Ibid., 200.

3. Hanawalt, Crime and Conflict, 33.

The sheriff was easily the most important of all the local officials. He held a unique position in the hierarchy of local administration. Since he was appointed by the central government he became involved in varying degrees of intimacy with all the workings of governmental activity within the shire.¹ In his normal course of activities he raised the hue and cry, arrested law breakers and enforced the local watch and ward.² On him devolved also the work of bringing a suspect or indicted man before the courts, empanelling the juries and carrying out verdicts.³ Just as the king's justices went around the countryside sitting in the county courts, so the sheriff travelled around his county twice a year sitting in the hundred courts.⁴ Here he received presentments of offences against both the king's peace and against private citizens.⁵ It was not always the sheriff who made the rounds and his bailiffs manipulated the view to his personal profit by farming the hundreds.⁶ Without his co-operation the central government was virtually powerless in the countryside. But sheriffs were the weak links in law enforcement at the local level. They were highly susceptible to bribery and could be compelled to make false returns to writs if they made them at all, to empanel juries, or to fail to compel offenders to appear in court.⁷

The sheriff was very aware of the important position he held in the governmental structure, and increased legislation was needed to inquire

-
1. Jewell, Local Administration, 182.
 2. *Ibid.*, 188.
 3. Bellamy, Crime and Public Order, 13.
 4. Plucknett, Concise History, 104.
 5. Bellamy, Crime and Public Order, 90.
 6. Jewell, Local Administration, 164.
 7. Ross, Edward IV, 391.

into his misdeeds as he continually abused his powers.¹ It was not unusual for a sheriff to report that he had been unable to find a man wanted for trial by the central courts to save himself the trouble of delivering a writ. By the fifteenth century, the problems caused by the sheriffs' behaviour grew to such proportions that the central administration was compelled to curtail his duties and responsibilities.

From the time of the Conquest the sheriffs' duties had been more and more clearly defined. As their powers increased their office became the focal point for corruption. Contemporaries felt that the solution for this was the steady increase in the responsibilities and authority of the justices of the peace.² After 1360 these men took over the power and criminal business of the sheriffs' tourns. This continued until the later fifteenth century. Nevertheless the medieval sheriff of the late fourteenth and the fifteenth centuries was still a figure of considerable importance as the king's agent. His magisterial powers at the tourns remained valuable until 1460 and, in fact, his rôle as an agent in the preparation of business before a visitation by the itinerant justices grew in importance as the power and competence of the local courts diminished.³

Throughout the fifteenth century, as a result of increased corruption and the growing importance of the justices of the peace, the powers of the sheriff declined as steadily as they had multiplied. Throughout the fourteenth century the question of length of time in office was constantly debated; it was eventually decided that they could serve no

1. Jewell, Local Administration, 143.

2. Ross, Edward IV, 391.

3. Jewell, Local Administration, 186.

longer than one year at a time. In 1445 Henry VI confirmed the decision of Edward III and Richard II which banned sheriffs from holding office for more than one year and added a £200 fine for infringements. Edward IV also banned lengthy tenure of office.

the later medieval sheriff, the king's only server of writs and empaneller of juries, was emasculated as an effective, impartial agent of central government by a diminishing financial role, by his being deprived of control of the crown lands within the area of his shrievalty and by parliament's insistence of his annual appointment and prohibition of reappointment within three years.¹

During the late fourteenth and fifteenth centuries further regulations were imposed, including rules for conduct. In 1404 legislation was enacted to prevent sheriffs, escheators, customs officials and others in royal service defrauding the king. The following year, in 1405, attempts were made to stop the levying of judicial fines more than once. In 1426 there was legislation to investigate sheriffs' misconduct in embezzling writs and in not telling jurors to appear. In 1445 sheriffs were ordered not to take fees for empanelling juries or to accept bribes from a man to be bailed. In 1461 legislation was passed removing their tourn jurisdiction. However, sheriffs still retained a fair degree of influence in local affairs.²

The medieval constable was the local police officer. As there were constables of both the township and the hundred, their duties varied. There were usually two or three of the former whose tasks included making the arrest when hue and cry was raised. The constables of the hundred had a semi-military character for they were the permanent

1. Wolfe, Henry VI, 117.

2. Jewell, Local Administration, 193.

captains of the hundred posse. Both types of constable received many of their instructions from the sheriff.¹

The coroners played an important rôle in local administration although their job was much subordinate to that of the sheriff and had none of the prestige. They were mainly concerned with felonies, especially homicide, but they also had other duties. They were required to hold inquests on sudden deaths by accident, by violence, or in prison. They recorded the value of the property of any indicted persons, arrested them and took their chattels into custody; and they attached witnesses and first finders to appear at any subsequent proceedings. It was the coroner who was obliged to go to sanctuaries and hear abjurations and assign a port of embarkation; they also heard approvers' declarations. On the less legal side, they appraised wrecks, royal fish and treasure troves. Despite this multiplicity of duties seeming to indicate a less clearly defined role, and their apparently lowly status on the official totem pole, the central government regarded coroners as a useful check on the activities of the sheriff, while he in turn watched the coroner.²

iii Central Courts

a King's Bench

Despite its close affinity with the common people of England the local administration was of minimal importance before the all-encompassing power of the central courts. There were three major courts at Westminster with other institutions, like the King's Council,

1. Bellamy, Crime and Public Order, 93-94.

2. Jewell, Local Administration, 155.

possessing a certain degree of judicial power. Although each of these three courts, King's Bench, Common Pleas, and Chancery, had its own specific jurisdiction, the lines of division were not insurmountable. Cases moved from court to court as occasion required for frequently a case had several facets all of which could not be dealt with by a single court.¹

Just as the Exchequer had formed round the financial routine, and the Court of Common Pleas was to grow up with the common law forms of action, so the constant occupation of the King's immediate advisers with matters referred to them from the Common Pleas, and also with matters particularly touching the King, gave rise to a new body of procedure, and soon to a new court - the Court of King's Bench.²

The court of King's Bench had originally followed the monarch as he moved around the countryside for it possessed the necessary power only when it was near the king. During these wanderings the King's Bench had established its right to supersede the power of all other local courts in the county in which it happened to sit³ and had become the most prestigious of common law courts dealing with criminal cases.⁴ It was the 'eyre and more than the eyre' for it dealt with the same suits as the Eyre but it was vastly superior to it. It delivered the county gaols without the need of a special commission; heard possessory assizes and attracted to itself all manner of civil suits.⁵ It also heard

1. Plucknett, Concise History, 157.

2. *Ibid.*, 150.

3. Blatcher, King's Bench, 2.

4. Bellamy, Crime and Public Order, 99.

5. Blatcher, King's Bench, 2.

presentments from juries of the hundreds of the county in question.¹ This was because of the fact that all other courts were at a standstill.² The justices of the King's Bench on coming into a county demanded that all commissioners assigned to hear and determine cases of felony and trespass send in all their undetermined indictments. The court made an attempt to deal with all business pending before the Justices of the Peace.³ This ability and willingness to hear all types of suits provided for the complainants of all counties a cheaper and less troublesome mode of justice than was provided by purchasing a writ out of Chancery.⁴

By the middle of the fourteenth century the King's Bench had ceased its peregrinations and settled finally at Westminster. Occasionally in the fifteenth century however, the justices travelled around the countryside to hear indictments before the custodes pacis where an exceptional level of violence warranted it.⁵ From that point it took cognizance of those suits in which the king himself had specific interest and dealt with a very limited number of civil suits in order to even up the balance between the other courts and itself.⁶

The King's Bench reviewed cases of error in all lower courts except the Exchequer and the courts of the Cinque Ports. Thus it

-
1. B. H. Putnam, ed., Proceedings before the Justices of the Peace in the Fourteenth and Fifteenth Centuries (London, 1938), lxi.
 2. Blatcher, King's Bench, 2.
 3. Putnam, Proceedings before the Justices of the Peace, lxxi.
 4. Blatcher, King's Bench, 112.
 5. Harding, Law Courts, 96.
 6. Blatcher, King's Bench, 34.

supervised not only the courts of local jurisdiction and the commissions, but also the Court of Common Pleas and, some would say, the Chancery itself.¹ This is not to say the Common Pleas and Chancery were not responsible for their own jurisdiction for their judgements were absolute in most cases, but that, as the court which represented the king's interests, King's Bench had judicial seniority, and the Chief Justice of the King's Bench was the senior justice in the land. It acted as a court of first instance and thus it usually, though not always, delivered its own gaol, the Marshalsea, once every term.²

b Common Pleas

Despite its actual status as senior bench, it is not the King's Bench that is discussed and analyzed most often but its junior partner the Court of Common Pleas. Perhaps this is because it dealt with more cases than the King's Bench. We know that the King's Bench involved itself only in those cases in which the king had a direct interest; but surely there were far more suits in which the plaintiff and defendant had no connection with the king at all and his only interest would be that the court uphold his prerogatives as monarch. A major part of the problems of his subjects held little or no interest for the king so he was quite willing to pass the responsibility for dealing with them over to the Court of Common Pleas:

Its reputation as a court for the prosecution of civil suits had no doubt grown during the period when the frequent and unpredictable

1. Ibid., 1.

2. Ibid., 47.

movements of the King's Bench had made the prosecution of a suit there an endurance test to be avoided.¹

The availability of the Common Pleas was another reason for its popularity and increased business over the King's Bench.

The foundation of the Common Pleas in 1178 was suggested by the experience of the Justices in Eyre. Its purpose was to make available all the time the judicial advantages of the intermittent Eyre while the excesses of those judges were to be prevented by subjecting the new court to the supervision of the king's council and by confining it within certain limitations which soon became quite strict. The result of this was to give to the public a court which was no longer involved with the financial functions of the Eyre.²

The jurisdiction of the Common Pleas involved civil suits but its only strictly original jurisdiction involved privilege. The ordinary jurisdiction arose from an original writ of Chancery directing the defendant to answer the plaintiff before the Justices of the Bench at Westminster.³ Jurisdiction was shared with the King's Bench in maintenance, conspiracy, breaches of statutes, trespass, and its derivatives.⁴ These suits would be directly relevant to the king as well as to the common people so we can understand why both benches would be involved.

-
1. M. Hastings, The Court of Common Pleas in Fifteenth-Century England (Ithaca, N.Y., 1947), 26.
 2. Plucknett, Concise History, 148.
 3. Hastings, Common Pleas, 19.
 4. *Ibid.*, 16.

Despite its status as a central court at Westminster, the Common Pleas in the fifteenth century was hampered by many devices for delaying, hindering, and obstructing its work. This was because cases at law at this time were contests between two parties neither of whom would stop at much to win their action.¹ After the pleading of the case came the trial. By the fifteenth century many methods were in use by the Common Pleas, most of which were directly descended from the legal procedures of the early middle ages. Trial by record, by inspection or examination, by certificate of witnesses, battle, compurgation, and by jury were all used in the court though the latter was the preferable method. Trial by compurgation was restricted to those cases where the plaintiff had nothing to support his case but his own word and as, by the fifteenth century, this was a fairly rare phenomenon, it was not in much general use.²

There were many weaknesses in the system at the Court of Common Pleas not least of which was the payment of officers by fee rather than salary. To be sure, justices and their senior clerks did receive a salary of sorts but the very fact that they also relied on the fees of the plaintiffs speaks volumes about the pay scale. This reliance on fees with the frequent delegation of duties to subordinates and the multiplication of them through the splitting of offices helped make the price of lawsuits increasingly prohibitive. This was also the case even where there was no extortion, and where no bribes had to be paid, for no one was above accepting surreptitious payments. However, in this the

1. Ibid., 211.

2. Ibid., 197.

Court of Common Pleas differed little from other administrative offices.¹

c Chancery

The chancellor was head of the great department of state which produced the main classes of legal instruments, for example writs, and was responsible not just for the justice of one court but for all justice. He could be asked to give 'equitable jurisdiction' where the existing law could give none.² In equitable cases the petitioner claimed that no remedy was available at common law and he asked for an exceptional solution to his difficulties.³ The limitations imposed on the chancellor, though recognized in principle, were largely a matter of self-restraint and so they might vary. He was willing to hear any cases from other courts which for some reason could not be presented to a jury.⁴ Petitioners brought cases relating to conditional grants of land, limitations in the law of contract, and the abuse of the common law by the rich, powerful and violent.⁵ In such cases the chancellor issued a warning to the plaintiff not to proceed with his suit until the weak point had been dealt with in Chancery.⁶

The Court of Chancery also aided other courts in attempting to suppress the crimes of maintenance, embracery, and the like. . Piracy

1. Ibid., 241.

2. Blatcher, King's Bench, 3.

3. M. E. Avery, 'The History of the Equitable Jurisdiction of Chancery before 1460', B.I.H.R., 42 (1969), 130.

4. Blatcher, King's Bench, 4.

5. Avery, 'History of Equitable Jurisdiction', 132.

6. Blatcher, King's Bench, 5.

also formed an infrequent but colourful part in the chancellor's jurisdiction.¹ The mercantile community also played a part in the evolution of Chancery. The chancellor's ability to offer jurisdiction to the merchants derived from two sources : his supervisory jurisdiction over Staple towns, and his position as protector of 'strangers of the king's amity'.²

The willingness of the chancellor to hear cases already sub judice was a serious temptation for those defendants who feared they would lose their case, or for those people who had lost the verdict and were awaiting judgement.³ It is easy to see how attractive the chance of a re-hearing could appear to a person indicted of a felony. There was always a chance that the chancellor's verdict would agree with the justices of the bench he had left, but still he had a few more days to prepare himself for the outcome.

The main advantage of Chancery over ordinary courts was its superior machinery for bringing offenders into court, for examining parties, and for enforcing its judgement. Examination in court was verbal which was a much more effective method than the pleadings at the Common Law. Generally Chancery proceedings were quicker, cheaper, and less susceptible to local influence than those at Common Law. Therein lay its popularity.⁴ It is clear that the chancellor met pressing social needs in

1. Avery, 'History of Equitable Jurisdiction', 133.

2. N. Pronay, 'The Chancellor, the Chancery, and the Council at the End of the Fifteenth Century', British Government and Administration : Studies Presented to S. B. Chrimes, eds. H. Hearder and H. R. Loyn (Cardiff, 1974), 94 and 96.

3. Blatcher, King's Bench, 5.

4. Avery, 'History of Equitable Jurisdiction', 134.

facilitating the execution of the Common Law and in granting equitable jurisdiction.¹

The greatest expansion of the chancellor's jurisdiction happened in the fifteenth century with the defence of the cestui-que-use in cases involving feoffments to uses.² By the reign of Henry VI this had become the raison d'être of the Chancery court. In fact the chancellor was slow to develop a set of principles governing uses and appears to have been reluctant to diverge from common law rules. The most important need was to defend the cestui-que-use who was neither feoffor nor heir. By 1430 the requisite principles were fairly established. The chancellor had to decide whether a use had actually been raised; this was not easy as most conditions were verbal although usually eventually embodied in the 'last will' (ultima voluntas) of the cestui-que-use. Verbal examination of parties and witnesses was singularly well suited for discovering the conditions of the enfeoffment.³

This development of the chancellor's jurisdiction over uses, as with the demand that he fill the gaps in the common law of contracts, came from landowners who wished greater freedom to dispose of their lands as they liked and to make more flexible arrangements for their families than were normally possible at the common law. The avoidance of feudal incidents was also a motivating factor.⁴ With the increasingly important rôle of feoffments to uses the chancellor's ability to

1. Ibid., 137.

2. For a detailed discussion of enfeoffments to uses see below, pp.174-178 and J. M. W. Bean, The Decline of English Feudalism (Manchester, 1968).

3. Avery, 'Equitable Jurisdiction', 135-137.

4. Ibid., 138-139.

adjudicate on them endowed the Chancery court with higher prestige and the chancellor's decisions became the accepted final judgement.

d Exchequer and King's Council

The king's council also played a part in the meting out of justice. In the later middle ages it dealt primarily with matters such as counterfeiting, heresy, the spreading of rumours against the nobility, serious riots, cases originating outside the realm, and cases which held a personal interest for the king. Most of these fitted into the fourteenth-century definition of treason as personal affronts to the status of kingship and to the king himself. The council also acted as a clearing house for treason cases proper, delegating them to the other judicial bodies for determination. The council was very limited in its powers; it could pillory, imprison and fine, but it could not pass judgement of life and limb.¹ 'This interpenetration of the various government departments by the council can be regarded as the administrative aspect of the growing political supremacy of the Crown.'²

Included within the council was the court of Star Chamber. It struggled to enforce the law in cases where normal criminal law was hopelessly inadequate.³ Unlike its Tudor descendent, the court of Star Chamber was not established to deal exclusively with cases of riot and severe disorder which threatened the entire realm. It had more in common with the local courts by treating wrongs as injuries to be

1. Bellamy, Crime and Public Order, 100-101.

2. T. F. T. Plucknett, 'The Place of the Council in the Fifteenth Century', T.R.H.S., 4th Series, 1 (1918), 163.

3. Plucknett, Concise History, 38.

compensated and offences to be punished. Thus a great majority of its work consisted of hearing private disputes.¹

The Court of the Exchequer was yet another minor court erected to deal with specific problems. In its origins the Exchequer was a financial body dealing with the king's book-keeping. By 1300 there was a statute law that no common pleas might be heard in the Exchequer. This was one of the first times that one court had attempted to limit the jurisdiction of another. It might be seen to have been motivated by self-preservation, for the Exchequer was in a position to offer advantages to any plaintiffs, for its process extended into Wales and the county palatinates. There were several areas where the Exchequer was authorized to deal with non-financial cases. Firstly, the officials and servants of this court could refuse to answer suits save in the Exchequer and could compel their adversaries to answer to the Exchequer. In some cases the suits of merchants, friars, and other favoured persons were heard there at the king's express command. Finally, parties could enroll recognizances in the Exchequer in the event the case might be heard there.²

In the middle of the fourteenth century the Court of King's Bench claimed the same right to hear errors from the Court of the Exchequer as they possessed in hearing errors from Common Pleas. The barons objected to this saying the only jurisdiction above them was the king. Eventually, in 1357, a statute erected a new court to hear errors from Exchequer. It was to sit in 'any council room nigh the exchequer' -

1. Milsom, Historical Foundations, 367.

2. Plucknett, Concise History, 160-161.

hence its name, 'Exchequer Chamber'. This court was composed of two great officers of the state, the chancellor and the treasurer. They alone were the judges though they could look to the justices of the Common Law courts to act as assessors. This was clearly an unworkable system as it was very difficult to get these two men together simultaneously. The barons stuck to their claim despite increasing pressure from the commons to allow the King's Bench to hear errors. Eventually, the Exchequer Chamber died out from lack of use though attempts to revive it continued for three hundred years afterwards.¹

iv Central Officials

The central courts were staffed by a much larger number of people than was to be found at the local level. This group consisted of professionals at the centre, the judges of the two benches, justices of assize, clerks of Chancery, the king's attorney, and the serjeants at arms, who were assisted by an even larger staff which did a major part of the work. The men at the local level whom we have already examined were appointed by the central government. These men, the sheriffs, constables, and justices of the peace, were called amateurs because their offices were not their only source of income - they usually had other jobs as well.²

Within the legal profession there also existed an ordered hierarchy. At the head of the scale were the serjeants-at-law and the justices who were, by the fifteenth century, recruited exclusively from the serjeants. They were followed by the Benchers of the several Inns of

1. Ibid., 162.

2. Bellamy, Crime and Public Order, 119.

Court, the Readers, the Ancients, the Utter or Outer barristers who actually practised law, and the Inner barristers who were students and were graded as 'apprentices' by the Inns and Chancery.¹

The two central courts relied heavily on the clerks who dealt with the paperwork. Most numerous amongst these were the filacers who, as the name implies, dealt mainly with the files of writs.² They were appointed by the chief justice probably for life during good behaviour, and were directly responsible to the court. Upon appointment they swore to serve faithfully and to make estreats, or extracts, of all fines, amercements and profits due to the king which arose out of the office. There were usually thirteen filacers who divided the work of the various counties between them in groups of two, three, or four. Those who shared a sheriff were kept together. Filacers tended to regard their office as a freehold and often passed it on to their sons or other relations.³

The most senior and administratively responsible of all clerical positions was that of prothonotary. 'The history of the office of prothonotary illustrates as well as any the lack of any conscious administrative concept behind the growth of officers in the court. This office originated, developed, and proliferated in response to immediate needs and pressures.'⁴ The tasks of the prothonotaries were to record the proceedings of the court and to frame the court's pleadings and enter

-
1. Ogilvie, King's Government, 20.
 2. Hastings, Common Pleas, 145-146.
 3. Blatcher, King's Bench, 43-44.
 4. Hastings, Common Pleas, 127.

verdicts and judgements given at the same time.¹ The clerks and attorneys of the Bench, especially the prothonotaries and filacers, acted as Clerks of Assize. For this they received commissions or patents of association with the justices.²

Next on the ladder of the legal hierarchy were the professional lawyers. In the several grades of lawyers this position was relatively easy to attain and so lawyers proliferated. Throughout the land there were men with varying degrees of legal competence ready and willing to aid those in need of legal advice.³ Some of the best positions for lawyers were with barons on their councils. Frequently large numbers would be employed by one man to aid him in his legal problems. Not all lawyers were scrupulous men - many were out for their own material gain. As a legal adviser a man would find himself moving up the social scale and not all were self-assured enough to resist the temptations which came their way. 'If the importance of law in government required the services of lawyers, lawyers undoubtedly exploited the situation. They may also have retarded change.'⁴

For those men who did not leave the Inns of Court to seek fame and fortune elsewhere, there was the possibility of receiving the degree of serjeant-at-law. This is not to say that all lawyers attained this exalted position for the appointments were few and far between. It took many years of study and legal practice before the degree of serjeant

1. Blatcher, King's Bench, 40.

2. Hastings, Common Pleas, 153.

3. E. W. Ives, 'The Common Lawyers in Pre-Reformation England', T.R.H.S., 5th Series, 18 (1968), 147.

4. Ibid., 155.

could be obtained. Small wonder so many potential candidates left. Once a man had earned the coif of serjeant-at-law however, the benefits were many. Only serjeants were entitled to plead in the Common Pleas and only they might look forward to a promotion to Justice of the Bench. Like the judges, they were called to parliament to assist the lords and justices as advisers to the council in its deliberations on judicial matters. As legal advisers to the crown, they outranked the king's attorney.¹ Once a man attained the degree of serjeant it was almost inevitable that he would be appointed justice within a maximum of ten years.

Clearly fifteenth-century judges of the central courts were no novices in the law. Their varied experiences as students, as practising lawyers, as administrators, and as judges prepared them, if any training could, for the variety of problems which came before them as judges.²

It was the duty of the justices to deal not only with law breakers but to mould the law as the crown desired. One would normally expect this to result in a lowering of the level of disorder, but the crown did not always desire such worthy objects as the suppression of lawlessness.³ If the king had a particular interest in the case at hand he might easily instruct the justices to bend the law in the direction which would most benefit him. As a result many wrongdoers were acquitted to continue their interrupted violence while others who might be innocent were compelled to repine in prison.⁴

1. Hastings, Common Pleas, 78.

2. *Ibid.*, 80.

3. Ives, 'Common Lawyers', 163.

4. See below, pp.160-166 for a discussion of fifteenth-century legal hierarchy in relation to the Pastons.

v Commissions

Commissions were appointed by the central government as the need arose. However, simply because a commission was issued did not mean that anything had been done, nor were all commissions of equal importance. The justices might have to deal with a case of theft or assault or they might be presented with the crimes of an entire confederacy.¹ The commission of Trailbaston is an example of an emergency commission. It was first used in 1304 as a sort of variation on the commission of oyer and terminer. Its purpose was to inquire into disturbances of the peace, maintainers of malefactors, and ill-treaters of juries.² The commissions gave to the justices the power to inquire into offences and to hear cases, not just to try those indicted at a lower level.³ They were extremely unpopular in the fourteenth and fifteenth centuries except at moments of much stress and turmoil when the central government had the support of the commons.⁴

The Eyre commission was yet another method of the central government to control the disorder in the countryside. It was the most comprehensive of all commissions to itinerant justices for it dealt with all manner of pleas. The articles of the Eyre usually required investigation into the excesses, misdeeds, taking of bribes, and other dishonest practices of sheriffs and bailiffs.⁵ The arrival of the Eyre stopped the proceedings of all other courts in the county except the Exchequer court and crown pleas at the King's Bench should it be in the same county at

-
1. Bellamy, Crime and Public Order, 3.
 2. Jewell, Local Administration, 142.
 3. Hanawalt, Crime and Conflict, 5.
 4. Jewell, Local Administration, 142.
 5. Bellamy, Crime and Public Order, 17.

the same time.¹ From the year 1300 the system began to collapse.²

The commissions of the Eyre also included commissions of assize. This word began by signifying a solemn session of a council or court but eventually came to include any enactment made at the meeting. Among the most important assizes were those establishing trial by inquisition and so it soon became common to refer to the inquisition of twelve men as an assize, while the various procedures leading up to this form of trial were also called assizes.³

Commissions of gaol delivery were a fairly permanent fixture in the central government. Justices were sent on a circuit of all the gaols trying and sentencing the people held there. As a general rule the justices of gaol delivery had absolute jurisdiction over criminal matters but sometimes the king would use other commissions to do the work of gaol delivery.⁴ Therefore, although there were commissions of gaol delivery, it was a matter of expedience as to who was given the right to deliver gaols.

Commissions of oyer and tenniner were the most powerful instruments of law enforcement that the king possessed and they were invariably used when public order was in serious peril. The justices of these commissions were the judges of the King's Bench and Common Pleas, with an admixture of noblemen, royal servants, and notable gentry.⁵

-
1. Jewell, Local Administration, 139-140.
 2. Bellamy, Crime and Public Order, 17.
 3. Plucknett, Concise History, 112.
 4. Hanawalt, Crime and Conflict, 5.
 5. Bellamy, Crime and Public Order, 99.

Commissions of oyer and terminer evolved in the thirteenth century and were closely related to the old Eyre. They continued to hear crown pleas. In the fourteenth century justices acted upon both presentments and querelae (suits of the individual) relating to maladministration and offences to persons or property.¹ During the fifteenth century the commissions of oyer and terminer played an increasingly important rôle in the governance of the realm. Not only was the country torn apart by the continuing disasters of the French war, but the noblemen were fighting for power amongst themselves. The decisive quality of this type of commission aided the central government in retaining a certain semblance of order amidst the chaos caused by the various fractious forces at work. It might be seen, in fact, to be the only successful form of legal jurisdiction functioning at the time. As it had been established to deal with this sort of serious disorder, the heavy reliance placed on the commissions of oyer and terminer was evidently the most sensible action that the central government could have taken at the time.

vi Justices of the Peace

The office of justice of the peace was a creation of the crown. It originated in the centralising and consolidating policy of the Plantagenets, and was an important factor in that long process by which all men and all institutions were brought under the direct and supreme authority of the state.²

The actual origins of the justices of the peace are uncertain. In 1195 there was an edict issued by Archbishop Hubert, the chief justiciar,

1. Jewell, Local Administration, 142.

2. C. A. Beard, The Office of Justice of the Peace in England in its Origin and Development (New York, 1904), 11.

concerning the preservation of the peace. It was meant to bolster up the customary methods of hue and cry and popular arrest by assigning knights to swear people to maintenance of the peace. They were also required to swear that they would make pursuit per toto posse suo when the hue and cry had been raised. All offenders were to be delivered to the knights who in turn handed them over to the sheriff.¹ 'Ad haec igitur exsequenda missi sunt per singulos comitatus Angliae viri. electi et fideles.'²

In 1205 a capitalis constabularius was appointed; he was the first official set beside the sheriff to keep the peace by force rather than by supervision of the existing system.³ In 1252 by writs issued for the enforcement of watch and ward and the assize of arms, it was established that the sheriff and two knights especially assigned for the purpose should travel across the county and compel all persons over fifteen to swear to arm themselves according to the amount of their lands and chattels.⁴ By 1263 the baronial party had appointed a custos pacis for each county. In 1265-7 keepers were assigned to twenty-two shires at one time or other. Some of these men were called custodes pacis, others simply the custodes et defensores of their shire.⁵ Appointment as a keeper conferred extra military powers. In 1277 the keepers were still commissioned for police duties, 'the intercepting and arrest of malefactors'.⁶

-
1. Ibid., 17-18; A. Harding, 'The Origins and Early History of the Keepers of the Peace', T.R.H.S., 10 (1960), 87.
 2. Beard, Office of Justice of the Peace, 18.
 3. Harding, 'Origins and Early History', 87.
 4. Beard, Office of Justice of the Peace, 19.
 5. Harding, 'Origins and Early History', 91 and 93-94.
 6. Ibid., 99.

In 1285 the Statute of Winchester was passed. Initially its framers meant the statute to be enforced by the constables of hundreds and by justices of assize not by the custodes pacis.¹ However, two years later, in 1287, knights were especially assigned to administer the statute for keeping the peace and within a few years were referred to as custodes pacis.² These keepers of 1287 took over from the justices of assize their duties with respect to the Statute of Winchester.³

In 1307 a commission assigned conservators to reside in the county and visit all parts when necessary for the conservation of the peace. They were given full powers to assign from every city two citizens, from every borough two burgesses, and from every market town two good and lawful men who were to enforce the 1307 commission in their respective places. In 1308 another commission appointed the keepers durante bene placito. By 1314 commissions included the powers to arrest 'suspects', and by 1316 the power to inquire of felonies as well as trespasses.⁴ Towards the close of the reign of Edward II the keepers were urged to greater activity in the dispersal of seditious assemblies, and the arrest of malefactors; in order to make this more effective they were given power to fine and punish at their discretion all who disobeyed.⁵

On 8 March 1327 commissioners were assigned from all the counties and were described as custodes pacis. They were authorized to enforce

-
1. B. H. Putnam, 'The Transformation of the Keepers of the Peace into Justices of the Peace 1327-1380', T.R.H.S., 12 (1929), 22-23.
 2. Harding, 'Origins and Early History', 99; Beard, Office of Justice of the Peace, 24.
 3. Harding, 'Origins and Early History', 100.
 4. Putnam, 'Transformation of the Keepers of the Peace', 23.
 5. Beard, Office of Justice of the Peace, 28-30.

Winchester, to hold inquiries by sworn inquest of felonies and trespasses, to arrest those indicted and imprison them until a delivery, to impose penalties on those who refused to aid the keepers, to command the sheriff to summon jurors, and to imprison offenders already arrested. In 1328 the Statute of Northampton added only responsibility over other local officials and the enforcement of a new provision against arms. In the commissions of the peace of 18 May 1329 keepers were given the extra power to determine felonies and trespasses. Keepers of counties were appointed on 16 March 1332; they were to be aided by the keepers of the peace and the sheriffs and by local officials in carrying out array and in pursuit of 'suspects'. They were also to hear and determine felonies and trespasses. In March 1336 an agreement or 'ordinance' was made to last only until the next parliament. A number of commissions were issued authorizing the arrest, in a limited area, of those 'notoriously suspected' of felonies and misdeeds. The parliament of 23 September extended the agreement and widened its scope. Commissions of 16 October for all counties included full powers to hear and determine felonies and trespasses.¹ In 1337-8 parliament provided for the assignment of good and lawful men to hear and determine all offences against the peace. This transformed 'keepers' to 'justices' for the third time in Edward III's reign.²

In 1343 parliament requested that both houses be allowed to choose keepers of the peace; that the justices be bone gents et loialx, queux ne sont mye meyntenours de malveis baretz, mieultz vauetz, des plus

-
1. Putnam, 'Transformation of the Keepers of the Peace', 25-27, 29 and 31-32.
 2. Beard, Office of Justice of the Peace, 39; Putnam, 'Transformation of the Keepers of the Peace', 34.

sages et plus descretz, and de bone fame et de bone condicion.¹ By 1348 the commons declared that the best way to keep the peace was by the election by Gentz des Counteez of six men, two magnates, two knights, and two men of law, on the grounds that 'residents are best fitted to deal with local needs'.² As they were, by the fifteenth century, permanent residents of their counties, they possessed the necessary intimate knowledge of people and places which facilitated better administration.³

On 20 February 1350 a highly significant commission for the development of the keepers of the peace was issued. To the usual clauses were added the power to inquire of negligent officials and to determine trespasses, homicides, and felonies. The quorum was required for the two last.⁴ This marked the transformation of the keepers to justices. From 1351 they had power to determine offences against the labour laws.⁵

In 1361 a statute was passed which gave to the justices jurisdiction over returning soldiers.⁶ They were given the right of summary arrest of certain other types of suspects, and the right to hear and determine all felonies and trespasses.⁷ It also added weights and measures to their jurisdiction.⁸ In 1362 they were told to take sureties from men threatening bodily harm or arson to others.⁹

-
1. Putnam, Proceedings before the Justices of the Peace, lxxviii-ix.
 2. Putnam, 'Transformation of the Keepers of the Peace', 42.
 3. Beard, Office of Justice of the Peace, 71.
 4. Putnam, 'Transformation of the Keepers of the Peace', 43.
 5. Ibid.; Bellamy, Crime and Public Order, 95.
 6. Beard, Office of Justice of the Peace, 40.
 7. Ibid., 41; Bellamy, Crime and Public Order, 95.
 8. Putnam, 'Transformation of the Keepers of the Peace', 46.
 9. Bellamy, Crime and Public Order, 95.

Shortly after the enactment of the statute of 1361 a reaction occurred against the justices of the peace which rivalled that of 1332-7. As a result, the commissions of 8 March 1364 showed a narrowing of jurisdiction. They were left with forestalling and regrating but no longer had final authority over the labour laws or of determining felonies. In 1368 the reaction was ended by a statute. The commission then included peace, Winchester, Northampton, Westminster, inquiry into felonies and trespasses, into all labour laws, weights and measures, forestalling and regrating; the power of determining felonies and trespasses with a quorum for the former, and a *requirement for the use of a Custos Rotulorum*. The duties remained unaltered until 1380 when the chief changes were the addition of extortion, and the specific mention of murder.¹ In the writ of that year, justices were to guard the peace within the liberties and without. They were to summon and bind to keep the peace all those who threatened the lives and properties of others; they were to inquire by wise men of the county into highway robberies, mayhem, murders, and other felonies, maintenance, confederacies, and extortions. They were to punish according to the laws, customs, and statutes of the realm.²

By 1380 the justices of the peace had reached the apex of their authority and were becoming increasingly important as administrators of economic legislation.³ As a result of their growing importance, through legislation enacted in 1388 and 1390, the justices of the peace began to be paid for their labours. The payments were to be made out of the

1. Putnam, 'Transformation of the Keepers of the Peace', 46-47.

2. Beard, Office of Justice of the Peace, 48.

3. Putnam, Proceedings before the Justices of the Peace, xlvi.

issues of the sessions, 4s. a day for a justice, and 2s. a day for a clerk up to a maximum of twelve days per annum for each of the eight justices per county.¹

In 1390 it was ordained that six justices should be appointed per county and should hold sessions in every quarter of the year for three days at a time if necessary. Two years later, in 1392, the number of justices was increased by two to eight, and any member of the nobility serving on a commission was prohibited from receiving wages for their work.² By this time they were being commissioned regularly to deliver gaols.³ During the minority of Henry VI it was ordained that the justices of the peace were to have lands to the annual value of £20.⁴ The justices of the peace lost ground in the fifteenth century as criminal law judges. However, they gained power as administrators through increased powers under new statutes and through supplementary mandates.⁵

The Statute of Labourers of the reign of Edward III was reaffirmed by Richard II and justices of the peace were again given rights over the labour laws. Twice a year at their sessions they were to proclaim all the statutes for labourers, artificers, hostelers, victuallers, servants and vagabonds. They adjusted the profits of victuallers, punished regrators of wool and other merchandise of the Staple, and supervised the shipment and exportation of wool. They enforced the statutes regulating the preparation of leather, the manufacture of arrow heads, tuns,

1. Ibid., xc.

2. Beard, Office of Justice of the Peace, 50-51.

3. Bellamy, Crime and Public Order, 96.

4. Beard, Office of Justice of the Peace, 54.

5. Putnam, Proceedings before the Justices of the Peace, cxxx.

barrels, hogsheads, wax candles, images, and tiles. An act was passed compelling all guilds and incorporated companies to place before the justices of the peace or chief governors of the towns their letters patent and charters to be recorded. Masters and wardens were also forbidden to enforce questionable ordinances until they had been approved by the justices. They had the right to repeal or revoke any ordinance which they considered unlawful or unreasonable.¹ Also under Richard II the justices were empowered to act against forcible entries, riots, routs, assemblies, and other disturbances of the peace. They were to take sufficient force of the county and go to the scene of the trouble.²

In the fifteenth century the duties of the justices of the peace included enforcement of the laws providing for watches along the sea coasts, and they were conservators of the rivers with full authority to appoint under-officials and punish offenders. They were required to take an oath that they would destroy 'all manner of heresies and errors, commonly called Lollardries, within the places where they exercised their offices and occupations from time to time with all their power'.³ In 1461 the king ordained that all indictments taken at the sheriffs' tourns should be handed over to the justices. In 1484 they acquired the power to admit to bail prisoners taken on suspicion of felony.⁴

By the fifteenth century justices of the peace had three main functions. First, they were to conserve the peace by putting down riots

1. Beard, Office of Justice of the Peace, 63-64.

2. *Ibid.*, 66.

3. *Ibid.*, 69.

4. Bellamy, Crime and Public Order, 96.

and arresting malefactors. Second, they received indictments, and at their quarter sessions they indicted men by trial jury. The third function was administrative; they helped in the local government and checked up on other officials. By the middle of the century they had developed into the 'most efficient and powerful local officers of justice and administration'.¹

vii. Conclusion

Although much of the administrative machinery of the middle ages did not function in the manner expected, certain aspects did cause a large part of it to last past the medieval period and into a more stable time. For example, the firm stand taken by the king to reserve certain judicial appointments to himself allowed the central government strong control over local administration. This laid the foundations for all the centralizing policies of the Tudors.²

In spite of these strong points, the legal administration of the middle ages, and in particular the fifteenth century, was not a highly advanced or eminently workable system. Most of the procedures which had worked to a certain degree in the early middle ages proved to have no validity or feasibility in the fifteenth century. The only exception to this were the commissions of oyer and terminer which proved their reliability and workability in the field. Most of the methods of local administration, particularly the hundred courts and the sheriffs' tourns, faded into obscurity before the rising star of the justices of the

-
1. B. Lyon, A Constitutional and Legal History of Medieval England (New York, 1960), 623-624.
 2. Beard, Office of Justice of the Peace, 44.

peace. Many, of course, had simply passed into a twilight zone when their powers had been superseded and improved by some other system. The jurisdiction of the vill is an example of this.

As for the central courts, the corruption which was rampant in the early years of the middle ages did not dim during the fifteenth century and the procedures in common use became antiquated quickly. Altering existing legislation was a lengthy process and governments could rarely agree on the new content or form it was to take. As a result, legislation in the middle ages tended to stagnate, preventing criminal jurisdiction from expanding in any way.

It is not the purpose of this analysis to point out the shortcomings of medieval legal administration, nor is it the purpose to illustrate the uselessness of medieval justice, for in its day it was not ineffective. It was not the fault of the laws or the law-makers that their ideas became unworkable in a very short space of time. It was, one might say, human nature which caused this, just as it causes present systems to become equally infeasible in an equally short space of time. Man being what he is will always find a way around a system if it stands in the path of personal gain whether material or intangible. Thus was found the widespread corruption and lax standards of officials. Sheriffs and lawyers were the most guilty of this for they were in a position to manipulate the law around their own cupidity. Therefore it was necessary for the law to change constantly to deal with every new contingency.

Nevertheless, the fact remains that the legal machinery of the fifteenth century was not all it might have been. However, although the system was corrupt and badly organized with much internal upheaval,

the population of fifteenth-century England was accustomed to its foibles and moulded its expectations of it accordingly. What would have happened if a solution had been achieved for its problems cannot even be speculated. Suffice it to say that the machinery was there, it was systematized to a certain degree, and functioned after a fashion.

3. The Social Structure of Fifteenth-Century England

i Changing Theories on the Structure of Society

The fourteenth and fifteenth centuries were periods of evolution for the nobility. By the accession of Henry VII this group of men had developed into a distinct, separate upper rank, well-segregated from the mass of humanity surrounding it. Before the development of this peerage, the distinction between the nobility and the gentry did not exist.¹ However by the mid-fifteenth century the segregation was almost complete and the various strata below the nobility were also beginning to take on their own characteristics. Below the rank of knight was that of esquire, and below that the title of gentleman, or generosus, was taking on a new meaning. This title was the lowest in the armigerous rank.²

Thus 'from the Pope "who hath no peer" down to the "gentleman well-nurtured and of good manners" each had his place'.³ This developing and strengthening stratification even became the subject of sermons. One

-
1. T. B. Pugh, 'The Magnates, Knights and Gentry', Fifteenth-Century England, 96.
 2. K. B. McFarlane, The Nobility of Later Medieval England (Oxford, 1973), 122.
 3. Ibid.

such spoke of the fact that 'there be in this world thre maner of men, clerkes, knyztthis, and commynalte'.¹ As this concept was too sweeping in its generalization, the two lay estates of knights and commonalty were subdivided into groups which would be more comprehensible to the average man. The second estate became all ranks stretching from royalty to esquires and gentlemen, or perhaps simply lords and 'gentles'. The commonalty was partitioned into occupational groups. The division between these two groups was obvious, one standing for defence and government, the other for production and exchange. The knightly rank was often identified as the estate of chivalry; the commons were generally categorized as those 'whose occupations stondeth in grobbying aboute the erthe'.² Where then does one place the middle classes who neither tended the fields nor fought battles? These were the mediocres, the people between the merchants and the labourers. Merchants themselves never developed into a separate rank because they were primarily regarded as sources of cash by parliament. As a result merchants and gentry were classified together as the middle stratum.³

ii The Strata of Society

a The Nobility

According to K. B. McFarlane:

In 1300 there was only one heritable rank in England, that of earl; by 1500 there were five. But in addition, within each rank an order of

-
1. S. L. Thrupp, The Merchant Class of Medieval London [1300-1500] (Ann Arbor, Michigan, 1948), 288.
 2. Ibid., 288-289.
 3. Ibid., 291-292.

precedence, claimed and quarrelled over, based partly on date of creation and partly on special privileges conferred by the king, was rapidly growing up.¹

The earls of the reign of Edward I shared their status with a mass of men whose income exceeded £20 per annum; by the sixteenth century the ranks of the aristocracy had dwindled to a mere fifty or sixty elite families whose privilege and position marked them off from the rest.² Before the development of these different ranks in the peerage, magnates were those men who received personal writs of summons to parliament. By the fifteenth century these men had been replaced politically and socially by a far more rigid peerage. By the Yorkist period, the lay members of the upper house in parliament, a relatively small group of great landowners, had become the English magnates.³ Before fighting broke out at St. Albans in 1455 there were six English dukes and twelve earls.⁴ There were also viscounts (for example, Bouchier who sided with York at St. Albans⁵); marquises (Suffolk before he became a Duke⁶); and barons (William, Lord Hastings).

This segregation of the nobility did not preclude the entrance of new members. From time to time various families rose to prominence in some way, usually through service to the king, and thereby insinuated themselves into the ranks of the established families. An example of this is the elevation of the Wydeville family during the reign of Edward IV. There have been many words written on the subject of the

1. McFarlane, Nobility, 123.

2. *Ibid.*, 268-269.

3. Pugh, 'Magnates', 86.

4. *Ibid.*, 88-89.

5. Armstrong, 'Politics and the Battle of St. Albans', 27-28.

6. Griffiths, Henry VI, 112.

presumptuousness of the Wydevilles in trying to infiltrate the ranks of the established nobility as they were merely of knightly origin (though Jacquetta was the dowager duchess of Bedford). However, as M. A. Hicks points out, the Wydevilles were a 'decent country family' with lands in five counties. They had filled local offices since the mid-fourteenth century and served with great distinction in France.¹ An aristocracy which had already accepted families like the de la Poles, the Beauforts, the Hollands, and the Bouchiers into their midst had no reason to shun the Wydevilles, especially after Elizabeth had become queen of England. Pugh is quick to point out that between October 1464 and February 1466 the earls of Arundel and Essex, and Edmund Grey, the new earl of Kent, married their heirs to Wydeville wives. This hardly suggests resentment against the queen's family (although, to be sure, they would hardly allow social snobbery to come between them and material gain).²

Gain was distinctly an issue for the nobility when marriage to a member of the merchant community was proposed. As nobility, they would expect extensive sums in cash as a marriage portion for their daughters, but merchants, although they might be able to satisfy the monetary half of the arrangement, would rarely be able to fulfil the demands for land which usually composed a segment of the marriage compact. Thus it was easier and more materially satisfactory for members of the nobility to marry within their own ranks.³

-
1. Hicks, 'The Changing Role of the Wydevilles', 60.
 2. Pugh, 'Magnates', 87.
 3. Ibid., 87-88.

There grew up in the fifteenth century a new grade of peerage. This was called a barony of writ and by our period had gone far to establish itself with the right of personal summons to parliament. These men were, for the most part, descendants of men whom earlier kings had summoned with no intention of creating a hereditary dignity. They were selected mainly with a view to their territorial importance, although an ancestor's renown or the ancient lineage of the family also played a rôle. Intermediate between the earls and the knights, they provided recruits to each rank according to their fortunes.¹

Thus we see that by the late fifteenth century the evolution and segregation of the nobility was complete and knights, esquires and gentlemen were referring to the lords more and more as superior beings. The appellations and the modes of address considered suitable to their rank became increasingly elaborate, exposing the lowliness and servility of those who were not entitled to be so addressed. Men were now expected to know their place.²

Land was the most valuable asset a man could possess; without it he could not expect to become a person of any consequence in fifteenth-century England. Marriage was the easiest way to obtain the extensive tracts he needed to show himself truly noble and thus marriage at this time was very much a business proposition with little concern for the principals involved. The monetary value of a marriage was all-important and the language was of the business world.³ Thus, if he had lands to

1. McFarlane, Nobility, 274.

2. *Ibid.*, 275.

3. Bennett, The Pastons, 28 and 35.

recommend him, the merchant who wished to marry into a gentry family, for example, had little to fear from possible rejection of his suit on the grounds of occupation or ancestry. Gentlemen, however, did not face this prejudice in wishing to marry a merchant's daughter or widow.¹

However necessary and enviable large tracts of land were to the nobility of the fifteenth century, they were nevertheless a precarious asset. In order to retain landed status for extended periods a system of inheritance arose which rapidly became the accepted and approved practice. The laws governing inheritance of a fief were simple and unambiguous. Primogeniture was the rule; the eldest son inheriting. Failing a son, the land was divided into equal shares between daughters. In any case, a son was preferred to a daughter, and a daughter to a brother or any other male relative. Thus it was necessary for a man to have at least one son or failing that not more than one daughter. It is the sad case that approximately every twenty-five years one-quarter of English noble families were faced with the prospect of the disintegration of their estates either because there was no direct heir at all or the heir was a woman. It is not surprising, therefore, that methods were devised to prevent this from occurring.

A man might surrender his fief to the king or his overlord to receive it back on different terms than the ordinary fief. He surrendered a 'fee simple' for an 'estate tail'. The variety of these conditional gifts which became popular in the fourteenth century either excluded women from inheritance or postponed their admissability until

1. Thrupp, Merchant Class, 264-265.

all male descendants were extinct. This was called an estate in 'tail male', the which term evolved into 'entail'. The legal rule that there was no primogeniture among females made their exclusion to the last desirable. The fact also that they could be easily victimized by overlords or husbands, and especially that they placed the land at the disposal of other men when there might remain male family members who might enjoy it, caused this virtual exclusion of women from succession.¹ The situation was reversed if the family was able to produce one male heir every generation. Then it was almost inevitable that the family would add to its existing acreage (this precludes the chance of political miscalculation, as, for example, supporting the losing side in the struggle for political supremacy).²

'By the later middle ages the sanctity of the inheritance, of the 'livelode', had become almost a religious dogma among English landed families.'³ And many and long were the struggles between families over inheritance, jointure⁴ and other settlement disputes. Property (or the lack of it) was just as likely to divide families as to unite them. An example of this is the problems caused by Ralph, first earl of Westmorland, in leaving to the twenty-two children of his two marriages his property and money in a problematic arrangement. To the children of Margaret, his first wife, went his title and the manors and castles that went with it, probably entailed on the eldest son; but to the children of Joan, his second wife, he left all his money and to their

1. McFarlane, Nobility, 269-271 and 274.

2. *Ibid.*, 184.

3. Lander, Government, 175.

4. See below, pp.219-220.

mother a life interest in the castles of Raby, Middleham, and Sheriff Hutton. This caused no end of disputes, for what is an earldom without the money from rents to support it? And, although his second brood of children made a series of brilliant marriages, we know the importance of land in marriage contracts. Fortunately for them, Ralph had concluded all marriage settlements before his death in 1425. It was, as J. R. Lander states, indeed fortunate for England that these two branches of the Neville family never worked together in politics.¹

b The Middle Ranks

(i) The Gentry - Below the rank of noble came that nebulous gentry class which included knights, esquires, and gentlemen. During the fifteenth century this class was growing and beginning, in the process, to impinge on the newly exclusive territory of the nobility. These newcomers had acquired wealth and gentility through prowess in war, service to the king, success in trade or one of the professions, probably the law.² This development of a non-noble gentry class led to the development of class snobbery at a lower level. Basically speaking, mobility within this 'middle class' was fairly easy and accepted without question, yet this new gentry began to place emphasis on ancestry. Although a man might reach gentry status with the acquisition of money and property he would, in the eyes of his more established neighbours, remain nouveau riche.³ Once the family had attained the rank of noble, there was an accord with the Italian view that if

1. Lander, 'Marriage and Politics', 95-97.

2. Pugh, 'Magnates', 96.

3. Thrupp, Merchant Class, 310.

they became involved with 'artes vile' the family lost the quality of nobility. Occupations were considered 'vile' if they involved the member in manual labour or menial service, except as a gentleman servant in the royal or other great household. In the fifteenth century a man would have (and must have it seemed) experienced deep shame and disgrace if he had been seen putting his hand to a vile task.¹

Despite, and perhaps because of, this snobbery, members of the merchant rank encouraged their sons to choose freely their way in life unhampered by dark hints about the family business. They could follow in their father's footsteps or leave to serve a noble or royal patron.² They could seek a place in another profession such as the law, or move to the country to settle at the gentry level or below it. Here was another difference between the merchant rank and the nobility, for the former was far less concerned in acquiring landed possessions. The stability of the family was rooted more in a creative tradition that was still vibrant with life.³

The middle rank of society can be divided into two major sections : the gentry, and the merchant community. We have observed in our discussion of the stratification of the nobility that, in the reign of Edward I, the rank of noble had been shared between the earls and those men with annual incomes of £20 or more. As these earls began to draw away and upward on the social ladder, those who had been their peers became their social inferiors (though sometimes the parliamentary peers

1. Ibid., 306.

2. See, for example, the careers of the Paston men, below, pp.160-209.

3. Thrupp, Merchant Class, 318-319.

were poorer than the gentry).¹ Thus, economically at any rate, knights, esquires, and 'gentils' may be regarded as extensions of the baronage.²

Gentility in the fifteenth century was initially associated with the four military ranks of knight, banneret, esquire, and man-at-arms. These titles of gentility were acquired in various ways, military prowess being the most common, but one could also assume gentle rank in senior posts of all important departments of estate and household service:³

Estate administration, charge of the parks and warrens, maintenance of buildings, chamber, and garden work, care of the family health, and the skills of the kitchen, pantry, buttery, confectionary, and laundry all had parallel ladders of promotion.⁴

This was not the only way to achieve gentle rank since administrative positions under the crown, although long monopolized by the clerks, were also honourable. Important clerks held rank equivalent to gentlemen, and barons of the exchequer were frequently knights. Gentle rank was also, more and more, being conferred on judges in the form of knighthood thus bringing the legal profession into the sphere of honourable recognition.⁵

Although knighthood in later times came to represent an enviable dignity, during the fifteenth century there was no general desire for

1. McFarlane, Nobility, 275.

2. Thrupp, Merchant Class, 237.

3. *Ibid.*, 239-240.

4. *Ibid.*, 240.

5. *Ibid.*, 242.

the title. The dignity in the position was apparent only to the wealthiest gentry to whom it was a matter of pride that the head of the family should be a knight, and to soldiers to whom it represented a promotion.¹ It was felt that the burdens attached to the title were more trouble than they were worth. Men preferred to pay fines up to £20 to be excused from accepting a knighthood.²

(ii) The Merchants - Merchants fitted into the order of the middle ranks. In some places a merchant who enjoyed a large and regular income was regarded by some of his neighbours at least in much the same light as a gentleman of equivalent wealth. If he had gentle relatives in the district this was even more likely.³ However, as was previously stated, in the eyes of the old landed families, he would remain nouveau riche. This was partly because, in all likelihood, he retained ties with London and with trade. Therefore, since a merchant could not easily sever his ties with the city (he could not, for example, relinquish citizenship except by losing it for some serious breach of city laws), and it was to his own advantage to remain in scot and lot (paying his own share of taxes) if he possessed property in the city, it was most unlikely that he would ever be accepted entirely in the county where he chose to settle.⁴

This is not to say that the gentry disapproved of the merchant because of his source of income. Although the gentry was dependent upon

-
1. See, for example, the career of Sir John Falstolf, below, pp.239-242.
 2. Thrupp, Merchant Class, 275.
 3. Ibid., 272.
 4. Ibid., 279.

rents, military pay, and salaries and fees received from household and professional services; they were certainly not above encroaching on the territory of the merchant. They seem, in fact, to have been particularly alert for ways to make money in trade both as silent partners and in active dealing on their own account. These practices, furthermore, were found, especially in the wool-producing areas, from the high nobility and wealthy landed gentry downward.¹

The purchase of an estate where it would be suitable to live, the acceptance of the social rôle of the gentleman in that neighbourhood, the making of a good marriage for the next generation, the cultivation of the favour of patrons and of relatives of gentle blood - these were the obvious means, adopted in varying proportions, by which a merchant left his class and launched his family in a new way of living.²

These were but the more ostentatious attempts to upgrade their social standing employed by the merchant community. Conspicuous consumption was another method. They employed domestic servants, treasured silverware, and on festive occasions appeared with their wives dressed as gorgeously as the sumptuary legislation would permit (frequently more so).³ This interpenetration of the gentry ranks was further expressed in the adoption by the older families of armorial bearings. They served the dual purpose of identifying the family and of asserting a claim to status.⁴

1. Ibid., 244.

2. Ibid., 282.

3. Ibid., 255-256.

4. Ibid., 249.

Those wealthy merchants who did not move from the city, for the most part, became actively involved in the city government. By the fifteenth century towns and cities were almost completely autonomous. This had been a fairly slow process but by the reign of Edward IV towns had the wealth and power to influence the changes being wrought on English life, and the mayor governed his town a great deal more authoritatively, in many cases, than the king governed the kingdom.¹ This strictness was exhibited in the fact that once a man had taken out citizenship he was entirely under the jurisdiction of the mayor and aldermen. His status as a gentleman gave him no right to expect preferential treatment. On the other hand, the city government, constantly desirous of peace within its walls, had to be sensitive to all causes of offence by private citizens against courtiers or other gentlemen of standing.²

By the fifteenth century the various city oligarchies were well-established, powerful organizations and thus it was from their ranks that the city officials were elected. However, as J. R. Lander points out:³

Declining population, declining prosperity and declining municipal revenues with all their attendant consequences resulted in increasing reluctance on the part of the town oligarchies to take offices which were time consuming and expensive burdens.

This monopoly by the city oligarchies dated back to the thirteenth century and survived all attempts by the more democratic members of

1. Kendall, Yorkist Age, 53.

2. Thrupp, Merchant Class, 258.

3. Lander, Government, 20.

the community to open the election of mayor and aldermen to the less substantial citizens by means of a 'common council'. The city was so dominated by the rich merchant guilds that even at the eventual establishment of this common council the oligarchies maintained control by severely limiting representation at the elections. This dominance also led, at the end of the fourteenth century, to quarrels between the richer citizens and the rest of the city, the 'commonalty', touching the election of the mayor and bailiffs or mayor and sheriffs.¹

There was also in the fifteenth century a breaking down of the old barriers separating the town burgesses and the county gentlemen. We see the rise of the land-owning burgess and, later, the knight who is mayor of his town. The increased interaction between these two enormously different groups came from a growing business sense and the further pursuit of wealth (for as we have seen, he who owned land was considered far richer than he who had only cash assets), and was abetted by the landowning classes who were beginning to see the possibilities of trade.²

(iii) The Lawyers - There was one segment of the 'middle class' which played a vastly important rôle in fifteenth-century society. Despite this, it was regarded by the older landed families as barely decent. The profession of the law was vital in this time of turmoil yet because of its nature it was regarded as grasping and parasitic. E. W. Ives rationalizes this by explaining that to medieval society lawyers appeared to repudiate the principle that it

1. Jacob, Fifteenth Century, 385-388.

2. *Ibid.*, 386.

was every christian's duty to remedy wrong and injustice. By charging money for his services the lawyer was little better than a prostitute. In addition, lawyers 'encouraged litigation, delayed proceedings, were susceptible to influence, charged excessive fees and perverted justice through the technicalities of the law'.¹ The main charge against them seems to have been their lack of impartiality. Lawyers were seen to be too easily influenced by their clients' wealth and therefore did not hear cases 'with discretion and indifferency' or weigh them 'justly and truly according to the truth and equity of the law'.² Despite all this and the extortionate fees charged for the endless law suits which plagued the courts:

Far from being carrion which fed on the corruption of morals, lawyers supplied a skill which was essential to all, king, cleric, noble, gentleman, burgess, and commons alike.³

One might almost say that there was a degree of jealousy in the public's view of lawyers for 'the law was the only secular calling which offered the training, organization and opportunities of the developed profession. This precedence gave the common lawyers an enviable monopoly of talent and opportunity'.⁴ One can imagine society resenting the educational and financial benefits of the law.

-
1. E. W. Ives, 'The Reputation of the Common Lawyers in English Society, 1450-1550', The University of Birmingham Historical Journal, 7 (1960), 134-135.
 2. Ibid., 139.
 3. Ibid., 161.
 4. Ibid., 130; see below, pp.160-166 for a fuller description of the required training of a lawyer.

Throughout England at all levels of society there were lawyers prepared to offer their services for every need.¹ They were used primarily by the magnates for their baronial councils:

The management of his estates, the protection and pursuit of his legal rights, the supervision of his business in parliament and the implementation of administrative reforms all required expert help.²

They were called the counsel learned and they had clearly defined tasks to perform. Some were retained as specialists engaged for one or two specific cases, some for an indefinite period. Mostly they were retained as estate staff as well as counsel, and much business came before them which never reached the courts. It was their business to ascertain whether litigation should commence or whether a case would best be settled out of court. In many cases lawyers on separate councils would settle the case after one or two terms in the courts because of the interminable nature of legal proceedings.³

Frequently the baronial council would act as a tribunal to settle internal quarrels, for example, those between a tenant and a retainer; occasionally cases came before them which involved men with weaker connections who hoped to gain a more favourable decision than they might expect at the common law. By the fifteenth century these councils provided an operative and feasible alternative to litigation in the King's Bench or Common Pleas. They provided a court of arbitration for

1. Ives, 'Common Lawyers', 147.

2. C. Rawcliffe, 'Baronial Councils in the later Middle Ages', Patronage, Pedigree and Power, 88.

3. *Ibid.*, 90-91.

property disputes and other civil suits at a greatly reduced cost.¹

Many magnates also kept a staff of lawyers in London to deal with their business at the Exchequer, in Chancery, and in the common law courts. Often they had attorneys general who were regularly employed with one or two subordinates to deal with any litigation. These men, however, filled a different rôle than those employed as the counsel learned, for they received their fees from many different quarters. In fact, they might be compared to those retainers serving many lords simultaneously:²

Influence, expertise, and professional skills were sold as a premium, so that a shrewd lawyer or official could supplement his income by offering advice to several lords at once.³

As a councillor to one great lord or to many, lawyers were increasingly in demand. Thus they were able to command additional fees and more opportunities for advancement opened up to them.⁴

Lawyers at work in Westminster were also involved in county life as commissioners and, depending on their rank in the legal hierarchy, as assize justices. They were also members of county society⁵ and this must have proved galling to those families whose wealth and status was based on ancestry and landownership. The law was the road to social advancement. Those men who had already arrived, as it were, had no need

1. Ibid., 91.

2. Ibid., 93-94.

3. Ibid., 102.

4. Ibid., 104.

5. Ives, 'Common Lawyers', 150.

of its status-giving qualities. Those who were attempting to claim gentility pursued the law and, in fact, it was ideal for this purpose for the legal terms occupied less than half the year and it was through his county connections that a man would be introduced to an inn of court and to clients.¹ Thus we see that the common law was not only a way to accumulate great wealth, but its members played an important part in founding new gentry families and supporting old ones with rich dowries and jointures.²

iii Ties of Dependence

a Bastard Feudalism

By the fifteenth century, English society was far more ordered than it had ever been. This structuring placed at the top of the ladder a group of men upon whom the lower orders were dependent. In the early middle ages this dependence and protection took the form of what we know as the feudal system : an arrangement based on land tenure. By our period this connection had been replaced by what is now known as bastard feudalism, a system which was firmly entrenched by the end of the reign of Edward III.³ As we can deduce from its title:

Feudalism still existed formally intact, but was becoming for all practical purposes a complex network of marketable privileges and duties attached to the ownership of land, with little or no importance as a social force ... It was there, and indeed remained so for centuries to come - all pervasive but inactive - in the background, while the new order of patronage,

1. Ibid., 157 and 160.

2. E. W. Ives, 'Promotion in the Legal Profession of Yorkist and Early Tudor England', Law Quarterly Review, 75 (1959), 148.

3. Kendall, Yorkist Age, 209.

liveries and affinities occupied the front of the stage, as it was to do in England throughout the fourteenth and fifteenth centuries, with an epilogue which far outran so-called medieval times.¹

Bastard feudalism was a system of dependence as had been its precursor, but when a man asked another for 'good lordship' he was acquiring a temporary patron. This became, at least for the moment, a mutually beneficial arrangement for he, of whom good lordship was demanded, might wish to rise socially (and who did not), and for this good lordship was essential. A successful man, therefore, gradually gathered around him what was called his affinity. Unlike a system of fiefs and service, the bastard feudatories lasted only as long as they were found useful, as long as good lordship lasted, or until the loyalty to one lord was ousted by another.²

b The Magnate Affinity

The group of men gathered around a lord was also called his 'retinue', the men his 'retainers'. These groups flourished in the climate of growing disorder during the years of the personal rule of Henry VI. Their ranks were swollen with their victims, driven there through the desire and necessity of self-preservation, and their violence was condoned at court. The system of retinues was a vicious circle : gentry families, caught by the violence of rival factions, sought a good lord who, in competition with his rivals, constantly sought more retainers. These retainers wreaked havoc on the countryside

-
1. K. B. McFarlane, 'Bastard Feudalism', B.I.H.R., 20 (1943-5), 162.
 2. K. B. McFarlane, 'Parliament and "Bastard Feudalism"', T.R.H.S., 4th Series, 26 (1944), 70.

in ever-widening circles.¹ For all intents and purposes, therefore, retinues had a detrimental effect on the country:

They helped in a large measure to break up late medieval society by loosening the ties of traditional loyalty and obedience, by dislocating the work of public assemblies, by laying violent hands on disputed property in the interests of their lords, and by giving them the opportunity, if not the motive for civil war.²

Naturally no lord could hope to maintain his retinue without some form of remuneration, so his retainers were held for the most part by cash fees or annuities since he could not reward them with land. Some lords settled sizeable sums on men whom they particularly wished to retain. Money, however, was not the only form of compensation, for frequently lords had at their disposal a wide range of offices for which the retainer could command a fee. 'By appointing stewards, receivers, constables and janitors of castles, keepers of forests, parks and warrens, he could enlist men in his service; often the fees paid in connection with these local offices were far in excess of adequate remuneration for such duties as were performed.'³ As well as these paid offices, a great lord also had his household, composed of councillors and estate officials as well as stewards and the like. Many of these men would be able to muster others to swell the ranks of the lord's following which, especially in Lancastrian England, he might feel necessary to assemble in both peace and war.⁴

1. Kendall, Yorkist Age, 210.

2. N. B. Lewis, 'The Organisation of Indentured Retainers in Fourteenth-Century England', T.R.H.S., 4th Series, 27 (1945), 29.

3. Pugh, 'Magnates', 103.

4. *Ibid.*

This attendance on the lord when summoned was one of the essential purposes of the retainer's service. Thus, though he was rarely permanently resident in his lord's household, the retainer's duties were clearly those of a personal attendant. One difference that existed between a paid retainer and a household official was that, with the former, the lord felt obliged to ensure loyalty by means of a binding written acknowledgement of the relationship. This provided more stability in the relations between retainer and lord, though it did not have the same stability as the earlier tenurial relationship. One might add, however, that the varying degrees of freedom which a retainer enjoyed *obviated* the strain on personal loyalty from which the tenant must have occasionally suffered.¹

The document which bound the retainer to the lord was not the earlier charter of enfeoffment but the indenture and letter patent. These created *fee* retainers for a set number of years. The indenture was 'a compact between X and Y by which X grants Y an annual fee in return for which Y promises some form of service commonly for as long as both live but not binding upon the heirs of either'.² The result of this bond was that there were some retainers who stuck to their lord through good and bad times. On the other hand, and as is almost bound to happen where either side is allowed a certain degree of freedom, although the retainer might fight for his lord in battle, desertion often followed defeat. So we see that these retainers, held together by little more than hope of monetary gain, swelled with good fortune and dwindled alarmingly with adversity. To hold these motley bands

1. Lewis, 'Organisation of Indentured Retainers', 34-36.
 2. McFarlane, 'Bastard Feudalism', 164.

together must have required considerable art, knowledge, and force of character.¹

Although the retinues were primarily used by the lord to serve his own purposes, these companies also provided for the king a skeleton army. They might be regarded as fifteenth-century equivalents to the Reserve Corps. of the modern day, for it was from their ranks that the king recruited armed forces to meet domestic and foreign crises.² In times of peace, the retainers provided for their lord counsel, aid and service, military and political. In return the retainer expected 'aid, favour, support, and preferment' in all matters legal, military, and civil.³ This relationship created through their joint activities served to increase their respective 'profit and worship' - the state of being held in high esteem.⁴

c Abuses of the System

After describing the system and usage of bastard feudalism it seems almost unnecessary to state that its existence caused many complicated problems for the government. The governance of the realm was a matter of concern to both the crown and the nobility. The latter's contribution took the form of patrols of armed retainers; these eventually became the principal method of social control.

1. McFarlane, 'Parliament and "Bastard Feudalism"', 71.

2. W. H. Dunham, 'Lord Hastings' Indentured Retainers 1461-1483', Transactions of the Connecticut Academy of Arts and Sciences, 39 (1955), 11-12.

3. Ibid., 9-10.

4. Ibid., 52.

Evil they could be if they got out of hand, but in the absence of a police force, a standing army and a bureaucracy, and the lack of money to pay for such things, bastard feudalism was an essential part of contemporary government.¹

The 'evil' retainers used force not only to administer order but also in competing for lands, influence, or the spoils of office.² These bands were also used against government institutions, most particularly, the courts of law, where the crimes of embracery (threatening a jury), maintenance (upholding one's retainer's rectitude against all evidence to the contrary and under all circumstances), and other methods of bringing undue pressure to bear in litigation, were rampant. The government did legislate against these crimes but the society of the late fifteenth century had reached such a stage of unrest that it could not function without bastard feudalism in whatever form it took. The king himself could not do without it, partly, as we have seen, because it provided him with a standing army of sorts, and partly because during the civil wars he had as much need to protect himself against his overmighty subjects as they had to protect themselves against each other. 'It filled the vacuum left by the poverty and weakness of the executive power and by the lack of any constructive social and political policies.'³

That civil war should have broken out in a state of society like this need occasion no surprise. The enormous retainers of feudal noblemen were in themselves sufficiently dangerous to the peace of the kingdom, and when the sense of feudal subjection to one sovereign was impaired, the issue could not be doubtful.⁴

-
1. Lander, Government, 3.
 2. Kendall, Yorkist Age, 465.
 3. Chrimes, Lancastrians, 83-84.
 4. P.L. (G), i, p.328.

There were various illegal procedures connected with bastard feudalism which, through the years, became increasingly widespread. We have mentioned two, embracery and maintenance, already, and it is necessary to point out that the giving of livery, under certain circumstances, was also illegal. As the discussion of anti-livery legislation will show, only certain ranks were allowed to give livery and be liveried, but as the practice spread more and more, ineligible people sought 'good lordship'. Thus we see that over and above what K. B. McFarlane calls his 'hard-core affinity', a lord was the patron and pay-master of a swarm of hangers-on, both male and female, who were not bound to him by indentured contract yet in receipt of his bounty on a more or less permanent basis.¹

If a noble were asked to explain how he came to be retaining more people than was legally permissible, he might reply that he was compelled to do so because of the king's demands for contract troops. The habit of accumulating large numbers of retainers begins with this, for the king's use of indentured contracts for military service spread the concept of retaining through the ranks of the aristocracy by familiarizing almost all ranks with contract organizations. The king's demands for troops allowed the nobility to swell their affinity in the hopes of employing some of them in the national army thereby regaining in part some of their peacetime maintenance costs. It might also have been from this that lords learned the practice of sub-contracting - engaging retainers not only for personal service but to raise, by sub-contracts, a subordinate troop to serve the lord. This allowed him to develop and

1. McFarlane, 'Bastard Feudalism', 168.

control his retinue without having to select, equip, or command its rank and file.¹ It goes almost without saying that the larger a lord's retinue the greater a threat he became not only to the countryside immediately surrounding his major seat of operations, but to the government.

Maintenance of one's retainer in any litigation with which he might be involved was one of the main duties required of a lord. It was, to a certain extent, a permissible procedure, for a lord was expected to support his man when he had been wronged, but like the giving of livery, it had its illegal side. In fact, the process of maintenance goes back to Anglo-Saxon England when it was only if a lord upheld his man when he had done wrong that he was fined 120 shillings. The maintaining of a retainer in a lawful cause was an accepted part of the social code, 'as belongeth a lord to do'. By the fourteenth century the word maintenance, because of abuses, had acquired a bad connotation comprehending embracery, champerty, and bearing.²

It was because of the new connotations of these previously acceptable practices that parliament enacted various statutes against maintenance, embracery, and eventually retaining itself. Until 1382 the enforcement of legislation against livery and maintenance lay in the hands of the justices of the peace but they encountered great difficulties in bringing offenders to justice. In the 1390 parliament, the commons again demanded total abolition of all liveries. The king's eventual response was an ordinance which partially met these demands.

1. Lewis, 'Organisation of Indentured Retainers', 32.

2. Dunham, 'Lord Hastings' Indentured Retainers', 67-68.

The keeping of liveried retainers was restricted not forbidden. No precise process for the enforcement of the ordinance was laid down. Richard II's chosen instrument for enforcing the law against maintenance was the council. The major difficulty with this ordinance was that the lords were not prepared to tolerate its enforcement against one of their number who had the misfortune to be caught. A. Tuck wrote that the king's campaign against livery failed not only as a result of noble resistance but also because the commons mistrusted the processes Richard was prepared to use.¹ This ordinance recognized three distinct types of liveried retainer; resident household attendants, men bound by written indenture to serve their lord, and those whose attachment was due only to acceptance of his fees and the wearing of his badge and livery. It was against this third type that later legislation was directed. They were the people called 'maintainers, instigators, bar-rators, procurers and embracers of quarrels' whom lords were forbidden to engage. The other two types were regarded as legitimate and they were allowed to wear their lord's livery as a sign of their allegiance.²

The wearing of a lord's livery was originally regarded as a privilege but by the time of the ordinance of 1390 it was badly exploited. As a result, the ordinance allowed livery of company to be worn only by those knights and esquires actually retained by indenture to a lord. At the same time it reserved the right to give liveries of retinue to the peers thereby preserving the aristocratic monopoly over force and arms. The purpose of this was to place the peers on a type of 'honour system'

-
1. A. Tuck, Richard II and the English Nobility (London, 1973), 145-151.
 2. Lewis, 'Organisation of Indentured Retainers', 29-30.

relying on them to keep retaining and livery within the law.¹ The distribution of livery of company was restricted, in the same ordinance, to lay nobility; churchmen were strictly prohibited from it. The prohibition also extended to 'knights bachelor, esquires and others of less estate' who were regarded as not sufficiently endowed with land and money to maintain the estate necessary for a liveried retinue.²

After 1390 there were other statutes regarding retaining, maintenance, and livery. These, however, aimed at restricting retaining by trying to eliminate the abuses of maintenance, champerty, and embracery. They also tried to restrict practices like retainers wearing livery in the shape of 'badges, cognizances, tokens, and jackets' all of which identified the retainer's lord. This later legislation, unlike that of 1390, attempted to distinguish between 'maintenance (the evil to be eradicated), livery (the psychological stimulus to many of the activities), and retaining itself (the institution to be preserved)'.³ In the parliament of 1393 the king ordered that liveries of cloth might be worn by those less than the estate of esquire only if they were menial or familiar servants and resided permanently in the lord's house and not beyond it.⁴ In 1461 Edward IV took action against the giving of signs and liveries by prohibiting lords or any other person from giving them except if he was specifically commanded by the king to raise people to support him in resisting his enemies or repressing riots. In 1468 he declared the practice of retaining illegal except for resident household

1. Dunham, 'Lord Hastings' Indentured Retainers', 70.

2. McFarlane, Nobility, 122-123.

3. Dunham, 'Lord Hastings' Indentured Retainers', 12.

4. McFarlane, Nobility, 123.

servants or legal counsels. This was meant to apply to lords as well as those of lesser rank. There is no evidence to show that it was ever enforced. C. D. Ross supposes that it was prompted by a dispute which had led to three lords being indicted of having given unlawful liveries. No action was taken against them. It may have been intended to show that the retainer was there on sufferance. It was never taken seriously by the magnates. It is likely that this act was passed to calm the commons who complained regularly and bitterly about the practice, and was never intended to be enforced. Certainly the practice continued unchecked with the full knowledge of king and council.¹ By the time of Henry VII's accession to the throne, laws were being passed against noblemen retaining large numbers of men, and these were not suffered to remain a dead letter.²

iv Conclusion

It is difficult to ascertain what criteria established gentility in fifteenth-century England. The general picture one derives from popular histories is that ancestry counted for everything. To an extent this is a very accurate portrayal : belief in the superiority of landed families who had been able to maintain their position for several generations was very deeply rooted. They were constantly challenged by the growing number of nouveaux riches who arrived in the counties to take up residence but the defence of their position was unassailable.

Sylvia Thrupp states that ancestry was one of the most mysterious attributes of the nobility. It connected them with the dead, and the

1. Ross, Edward IV, 412-413.

2. P.L. (G), i, p.329.

commonalty's belief in the nobility's descent from the Trojans to Japhet and Seth, seemed to link them in some way with the gods. It was likely, however, that this was the only reason it held so strongly a fortified position; fourteenth and fifteenth-century families had very few solid concepts concerning ancestry.¹ Thus we see that gentility was not based in any way on fixed economic criteria or even on the possession of land except as it pertained to their ancestry.

To established families, gentle status meant the assured exercise and enjoyment of power and influence and the benefits which flowed therefrom. They were associated with the stability of the land itself. It was the less established gentry who based all their claims to gentility on the amount of land they possessed. The gentleman in the service of the nobility achieved gentility simply through service to his lord whether as a household gentleman or as a bailiff or a constable. It could be bestowed on promotion and lost upon dismissal from service. Rank was not bestowed for skill or knowledge but for making use of them to the lord's benefit, for filling positions of responsibility.²

From all this we see that despite the importance placed on it in daily life, land ownership was not the most important criterion for gentility. It in fact seems to have ranked second behind birth. Taken in conjunction, wealth and birth were the unbeatable combination, separately it was simply a matter of circumstance, now the nouveau riche was honoured, now the poor man of high birth.³

1. Thrupp, Merchant Class, 301 and 304.

2. *Ibid.*, 245.

3. *Ibid.*, 246.

Despite the apparently capricious nature of fifteenth-century social structure, we would venture to assert from the available evidence, that it was in all probability far more rigid than it appears. The term 'class' is an inappropriate term for the existing social structure. The society was based on 'rank', a term which implies actual status far more than 'class' which tends to separate society into bad, better, and best. 'Class', furthermore, seems to imply a far more capitalistically oriented society than the fifteenth century actually was. It was 'rank', after all, which set the criteria for the giving of livery and it was only certain ranks who might do so.

To conclude, then, although status played a part in society (and was, in fact, inseparable from it by nature), it was by no means the most important factor. In fact, the retaining men played a far greater rôle and affected the social structure to a much greater extent.

CHAPTER TWO

The Pastons and Norfolk

1. The Paston Family

Now that the social structure and behavioural patterns of the fifteenth century have, to some extent, been set out, it would be interesting to see how a family such as the Pastons would fit into the mould. It is, in fact, ideal for the purpose as it was, at least initially, the stereotype gentry family. In the years preceding the death of Sir John Fastolf the life of the Pastons was very similar to the earlier description of a nouveau riche family:

In the main the aims of the Pastons were the aims of all these struggling newcomers among the gentry. They desired to consolidate their possessions and to establish their position in the country. In order to do this, they were ready to protect their possessions by every means available; by the law, by the influence of patrons, by favourable marriages, and by placing their children in the houses of great landowners, or by the nobility.¹

i The Pastons and Fifteenth-Century Society

The Pastons had not been of the gentry for very long when their series of letters begins. There were rumours that Justice William's father, Clement, had been a mere yeoman who had been able to send his son to school by means of borrowing money. Although the document asserting this² was almost certainly written by, if not an actual enemy, someone who was not favourably inclined towards the family, the marriages of

1. Bennett, The Pastons, 4.

2. See below, Appendix I.

both William and his son John I were territorially rewarding, and by the death of Fastolf the family was fairly well established as gentry. William's wife, Agnes, inherited the manors of Marlingford, Stanstead, and Orwellbury from her father and thus came to the marriage well dowried.¹ Margaret Mautby, who married John I, was equally well off.

In common with their peers the Pastons sought 'good lordship'. There were several choices open to them at different points in their history. On 12 March 1450 Margaret Paston wrote to John I:

Sondery folkys have seyde to me that they thynk veryly but if ye have my lord of Suffolkes gode-lorchyp qhyll the werd is as itt is ye kan never leven jn pese wyth-owth ye have his godelordschep. Therfor I pray you wyth all myn herth that ye wyll don yowre part to have hys godelordschep and his love jn ese of all the materis that ye have to don, and jn esyng of myn hert also.²

At that time the patronage of the duke of Suffolk was greatly to be desired due to his high status in Henry VI's court. To anyone who aspired to influence or an office and who wished to gain security for himself and his property, Suffolk was the ideal 'good lord'.³

After his fall the Pastons turned to the duke of Norfolk for their 'good lordship'. This became even more important to the family, especially John I, after the death of Sir John Fastolf and his inheritance of the old knight's property.⁴ In 1461 John I had received a favourable judgement from Edward IV over possession of the manor of Caister and

1. P.L. (D), i, pp. liii-liv.

2. P.L. (G), iv, 544; P.L. (D), i, 135.

3. Griffiths, Henry VI, 584.

4. See below, pp. 252-292.

seems to have regarded the king as his 'good lord' at that time. He managed to get his son John II knighted in 1463. He hoped that his son would make friends among the other young men around the king and thus be able to prevent any attempts on the family lands. Similarly, he placed his younger son, John III, in the household of the young duke of Norfolk in the hope that the boy would win favour with the duke and thereby the Paston property would obtain protection. With his son in the household of such a great noble he would be sure to come in contact with other influential men of the court and friends of the king.¹

ii The Paston Family

In 1674 Francis Sandford, Rouge Dragon Pursuivant, drew up 'The Genealogie of the Right Honourable S^r Robert Paston de Paston, in the County of Norfolke, Knight and Baronet, Lord Paston of Paston, and Viscount Yarmouth. Together with the Descents of those Familyes, into which the Pastons have married, and of many Illustrious Houses, which branch themselves from this Noble and Antient Family : Collected out of severall Pedegrees & Evidences of this Family, the publick Records of the Kingdome, the Registers of the Colledge of Amnes, and other Monuments of Antiquity.' In this work he traced the Paston family back to one Wulstan who 'came out of France to his cosin William Earle Glanvile three years after the Conquest'.² It is interesting that Sandford derived most of his information from one of the letters in the collection³ which stated, in the name of Edward IV, that the Pastons had adequately demonstrated their right to 'a court and seniory in the towne

1. Bennett, The Pastons, 13.

2. P.L.(D), i, p.xl.

3. P.L.(G), iv, 641; P.L.(D), ii, 897.

of Paston' by tracing their 'lineall discent' from Wulstan and Glanville. They claimed their right to certain lands and rents 'before time of mind'. 'Also they shewed divers deeds and grants ... how that their ancetors had licence to have a chaplen and have devine service within them.' They gave proof that their land was held 'as of the chiefe lord of the fee' and that the marriages of the family had always been 'with worshipfull gentlemen', and their women had always been dowered well. The claim that would have been the most important for determining their status 'made open by evident proofe' was that they were directly descended 'of right noble and worshipfull blood and of great lords sometime liveing in this ... realme of England'. They also showed that they were related to some of the highest in the land and 'nere to many and sundry great estates and lords of this realme'. All these claims were 'openly proved and affirmed without contradiction or proofe to the contrary'.¹ In this document of 1674 Sandford (aided and abetted by his subjects two hundred years earlier) was attempting to endow the family with those qualities which seem to have been most favoured in fifteenth-century society, wealth and ancestry. This was a direct contradiction to the document mentioned earlier which traced the family to a bondman.²

The man Wulstan, whom Francis Sandford asserted was the Pastons' ancestor, came out of France to William Glanville. The latter was an earl according to Rouge Dragon but in the letter he used as evidence he was called Sir William Glanville. He was also identified as the man who later founded Bromholm Priory, between the villages of Paston and

1. Ibid.

2. See above, p.110; see below, Appendix I.

Bentley.¹ In the 1466 statement and the work by Sandford, the fifteenth-century Pastons were descended from the cadet branch of Wulstan's line. He:

had issue Wulstan, which bare armes gould flowret azure, and how he had issue Raffe and Robert, which Raffe senior bare armes as his father and Robert the younger bare silver flowret azure. And Robert had issue Edmund and Walter, which Edmund the elder bare as his father, and his brother, because he married Galnviles daughter, a cheife indented golde, the field silver flowret azure; and how their ancetors after bare with lesse number ...²

Sir John Paston was heir to all of those men for they all died without issue.

Despite this impressive show of established status there is no real evidence that Wulstan de Paston was in fact the ancestor of the fifteenth-century Pastons. Davis asserts that the earliest record of a certain ancestor is the will of Clement Paston made on 15 June 1419. It was a simple document naming his sister Martha and his son William as executors. He described himself as 'Clemens Paston de Paston' and does not even use the title armiger. This proves little however; such terms were not used consistently. William I despite his career as a justice of Common Pleas also described himself simply as 'Willelmus Paston de Paston'.³

Whatever his lineage Clement Paston was clearly a far-seeing man which is evidenced by his desire to send his son to school and afterwards to London to the Inns of Court. William's rise to prominence was

1. P.L. (G), iv, 641; P.L. (D), i, 897.

2. Ibid. See Appendix II.

3. P.L. (D), i, pp.xl-xli.

rapid. He was appointed steward to the bishop of Norwich very early in his career and soon gained the trust of a number of families who appointed him a feoffee to uses of their land and an executor of their wills. In 1421 he attained the degree of serjeant-at-law, and eight years later, in 1429, he became a justice of the Court of Common Pleas with a salary of 110 marks per annum.¹ 'It was without question William the justice, making good use of the schooling to which his father and uncle are said to have set him, who brought the family from obscurity in its little village [of Paston] on a bare coast to a position of respect in Norwich and substantial holding of lands in that country.'²

William's main concern was to improve the position of his family, and this he achieved by purchasing large quantities of land around Paston and further afield, such as Snailwell in Cambridgeshire. His more important purchases were Gresham, near Holt, and Oxnead,³ which he settled on his wife Agnes Berry, a Hertfordshire heiress. She brought to the marriage the manor of Marlingford in Norfolk, Stanstead in Suffolk,⁴ and Orwellbury in Hertfordshire. William's legal career after his marriage was by no means strife-free, and the records suggest that after he became a serjeant-at-law he was frequently a target for legal actions. However, when appointed justice, although engaged in legal affairs, his life was not abnormally disturbed.⁵ William Paston I

1. Bennett, The Pastons, 2.

2. P.L. (D), i, p.xlii.

3. Gresham is a parish in N Norfolk 5 miles SW of Cromer. Oxnead, also in Norfolk on the River Bure, is $3\frac{1}{2}$ miles SE of Aylsham. J. G. Bartholemew, The Survey Gazetteer of the British Isles (Edinburgh, 1904), s.v. 'Gresham' and 'Oxnead'.

4. Marlingford is a village in Norfolk 6 miles W of Norwich. Stanstead, in W Suffolk, is $5\frac{1}{2}$ miles NW of Sudbury. Bartholemew, Gazetteer, s.v. 'Marlingford' and 'Stanstead'.

5. P.L. (D), i, pp.xlii-xliii.

died in 1444; his wife survived him by almost thirty-five years. William and Agnes had six children : John I, Edmond I, William II, Clement II, another son named Henry about whom nothing is known, and Elizabeth.¹

After the death of the justice the care of the estate devolved upon John I and William II. Both of them had gone to Cambridge, and John had in fact followed his father into the law and studied for a time at the Inner Temple. The care lavished upon the Paston estates by John and William was vitally important, for the justice had not been dead long when the enemies of his family began their attacks.² There were several adversaries of the Pastons who made the years between 1444 and 1476 a difficult time for the family in many ways. However, land snatching was the most common form of persecution; physical violence was usually the last resort.³

John I married Margaret Mautby in 1440. She brought to the family the manors of Sparham and Fritton⁴ in Suffolk. It was through this marriage that John I became involved with Sir John Fastolf, for he was related to the Mautby family through Margaret's mother. This association was fruitful for the family although it led to many problems and much frustration as well.⁵ John and Margaret had seven children : John II, John III, Edmond II, Walter, William III, Margery, and Anne.⁶

-
1. Since nothing is known about Henry he has been placed to the right of Elizabeth on the enclosed genealogical chart, though there is no evidence that he was younger than his sister.
 2. P.L. (D), i, pp.xliii-xliv.
 3. See below, pp.228-236 and 276-292.
 4. Sparham is a village in Norfolk 7 miles NE of Dereham. Fritton, in E Suffolk on the River Waveney, is 7 miles NW of Lowestoft. Bartholemew, Gazetteer, s.v. 'Sparham' and 'Fritton'.
 5. See below, pp.250-296.
 6. P.L. (D), i, p.xlvi.

John II was a far different character. He lacked his father's attention to detail and was more interested in enjoying himself than adding to the family fortunes. He was knighted in 1463 and travelled with the king on various expeditions, and it was he who managed in the end to save part of the Fastolf inheritance for the family.¹

With their inheritance of the Fastolf lands the Pastons began to display behaviour patterns that were characteristic of the ancient landed families. They became increasingly selective about their friends and neighbours. They sought spouses for their children from the lower nobility and knightly ranks. The blow fell in 1469 when John and Margaret's daughter, Margery, wanted to marry their bailiff, Richard Calle. Her brother John III wrote that Calle 'shuld never have my good wyll for to make my sustyr to selle kandyll and mustard in Framlyngham'.² It was only because it appeared that Margery and Richard had plighted their troth in a binding manner (they were thoroughly examined by the bishop of Norwich), that the marriage occurred at all. Even so, Margery was not permitted to return home after the bishop announced they were truly betrothed, and when Margaret died in 1484 she bequeathed money to Margery's children but not to her. However, there is reason to believe that Margery was dead at this date. Evidently social position was a matter of no little consequence to the Pastons. They had a position to uphold and the deviant behaviour of their daughter was a severe trial to them. Thrupp adds however, that one should not assume that this prejudice was equally strong among the lesser gentry, for Calle

1. Ibid.

2. P.L.(G), v, 710; P.L.(D), i, 332.

probably felt that as the family's bailiff, recommended by the duke of Suffolk, he had every right to rank himself as a gentleman.¹ In the same year, 1469, Margery's uncle, William II, made an impressive match with Lady Anne Beaufort, daughter of that duke of Somerset who had fallen at St. Alban's in 1455.² This advantageous marriage no doubt emphasized to the humiliated Pastons the glaring social error committed by their wayward daughter.

John III continued to manage the Paston affairs after the death of his brother in 1479. He was a far more reliable man than John II and was placed on various commissions in Norfolk and elsewhere. He was M.P. for Norwich and sheriff of Norfolk and Suffolk in 1485-6.³ In 1487 he took part in the overthrow of the promoters of Lambert Simnel at the battle of Stoke and was one of the sixty-five men knighted on the field.⁴

For a few years after the death of John II, John III and his uncle, William II, fought against each other in a suit involving William's alleged infringement of John III's property rights. What this case actually indicated was the confused nature of inheritance laws in the fifteenth century. John III asserted that he inherited his grandmother's property because of the entail established by Justice William. His uncle, however, argued that Agnes's lands were his because she brought them to the marriage and therefore they were not at William I's disposal. It was not until five years later in 1484 that the question was

1. Thrupp, Merchant Class, 244-245.

2. P.L. (D), i, p. xlvii.

3. P.R.O., Lists and Indexes, IX, 87-88.

4. P.L. (D), i, p. li.

finally resolved.¹

The Paston family continued to prosper for two hundred years and then collapsed suddenly. William IV flourished under Henry VIII. He was a knight by 1520 and was present at the Field of Cloth of Gold. His heir, Clement III, was a distinguished scholar; he was succeeded by his nephew, a fifth William, who founded a school in Norfolk. William VI (1610-63) supported Charles I and was heavily fined and had property confiscated but his son Robert was created Baron Paston and Viscount Yarmouth in 1673 for services to Charles II. In 1679 he was made earl of Yarmouth. His son, the seventh and last William and the second earl, lost all his wealth and survived his sons. Consequently the male line and title died out. His estates were bought by Admiral Lord Anson.²

iii Biographies of the Paston Family

There has been very little biographical data included in the preceding pages except inasmuch as it was immediately relevant to events in the family history.³ The following pages are intended to provide

-
1. Bennett, The Pastons, 190.
 2. P.L. (D), i, pp.li-lii.
 3. There are several sources which give this information. The Dictionary of National Biography has histories of William I, John I, John II, and William III. J. C. Wedgwood's History of Parliament. Biographies of Members of the Common House 1439-1509 (London, 1936) traces the parliamentary careers of John I, William II, John II, and John III. There is also a certain amount of information in the introductions to both the Gairdner and Davis editions of the Paston Letters. The latter is an amalgamation of the previously mentioned sources and consequently has provided most of the information contained in the following pages. Therefore, unless otherwise indicated, the source is P.L. (D), i, pp.lii-lxiv.

concise histories of those members of the Paston family who appear within the pages of the Letters.

William I : 1378-1444

In 1412 he was a counsel to the mayor of Norwich and in 1413 he was appointed steward of the courts of the bishop of Norwich. From 1415 onwards he served on many commissions of the peace, first for Great Yarmouth, Norfolk from 1418, Yorkshire 1420, Suffolk 1422, and thereafter for many other counties; and on numerous commissions of array, assize, oyer and terminer, gaol delivery, etc.¹ In 1415 he became steward to the duke of Norfolk. In 1421 he attained the degree of serjeant-at-law, and in 1429 he became a justice of the Common Pleas. While a serjeant his services were retained by towns and religious bodies as well as private persons. His impartiality on the Bench acquired for him the honourable title of 'Good Judge'.²

On 27 August 1437 he was granted exemption for life 'for good service to the King in the said Bench and as serjeant-at-law, and for good service to Henry IV and Henry V, and to the King as one of the councilors at law of the duchy of Lancaster, and in consideration of his great age' from assizes and other duties outside his own county.³ Despite this he continued as justice of assize and commissioner in the home counties and London as well as Norfolk. In 1439 and 1442 he was a trier of petitions in Parliament; in 1441 and 1443 he was a member of commissions inquiring into the administration of Norwich. He died in 1444.

1. See below, pp.184-200.

2. DNB, s.n. 'William Paston'.

3. C.P.R., 1436-41, 59-60; see below,

Agnes : m.1420, d.1479

She was the daughter and heiress of Sir Edmund Berry of Orwellbury near Royston, Hertfordshire. She received from her father the manors of Marlingford, Stanstead, and Orwellbury as a dowry upon her marriage to William I. In 1433 she inherited these outright on the death of her father. Her husband gave her the manor of Oxnead in 1420. By all accounts, and as is clearly shown by the tenor of her letters, she was a formidable lady and was held in much esteem and awe by her children and all who came in contact with her. She survived William I, and John I and died in the same year as her grandson, John II, 1479.

The Children of William I and Agnes:

John I : 1421-1466

He was educated at Trinity Hall and Peterhouse, Cambridge, and at the Inner Temple in London. In about 1440 he married Margaret Mautby.

In 1447 he appeared on a commission of the peace for Norfolk. In 1450 he was a commissioner of array with John, earl of Oxford, William Yelverton, Sir Miles Stapleton, John Ferrers, John Berney, John Damme, and William Lomnor. It was about this time that he became the legal adviser to Sir John Fastolf. In 1452 John I was active in protesting against the disturbers of the peace in Norfolk. In 1453 he was pardoned as 'of Norfolk, gentleman'. In 1455 he was one of the three men who received a majority of votes in the election for knights of the shire, but the duke of Norfolk insisted that his own nominees be returned. In 1457 Paston paid an unspecified fine for declining a knighthood. He was a JP for Norfolk in 1460-6, and an M.P. for Norfolk in 1460-1 and 1461-2.

When Fastolf made a new feoffment of his estate in 1456 John I was one of the feoffees with his brother William II and several other eminent men of the time. In 1461 he was imprisoned in the Fleet. He came into conflict with the dukes of Norfolk and Suffolk and was twice more incarcerated in 1464 and 1465. He was one of the ten executors of Fastolf's will in 1459 and, with Thomas Howes, was charged with administering it. The year 1465 was full of problems: the manor of Cotton was threatened, Drayton was seized, and the house and lodge at Hellesdon sacked by the duke of Suffolk's men in October.¹ John I died in May 1466.

Margaret : m.ca.1440, d.1484

She was the daughter and heiress of John Mautby of Mautby and his wife Margery, daughter of John Berney of Reedham in Norfolk, through whom she was related to Sir John Fastolf. Margaret was born at Reedham. She was in charge of the manor of Gresham in 1449 when it was attacked by Lord Moleyns's men and she was expelled. She also was a force to be reckoned with although she was very much in her mother-in-law's shadow. In 1463-5 she interceded with her husband when he was angry with their eldest son, John II; she was incensed by her daughter's desire to marry Richard Calle in 1469; and the same year she roundly rebuked John II for failing to defend Caister Castle adequately or aid his brother, John III, in its defence. She also took an active part in forwarding John III's suit for the hand of Margery Brews in 1477. She died in November 1484 and was buried at Mautby Church.

1. See below, pp.282-285.

Edmond I : 1425-1449

Very little is known of him except that he was at Clifford's Inn in 1445 and he died in London in March 1449.

Elizabeth : ca.1429-1488, m.1458 and 1471

Her early adult life was made exceedingly unpleasant for her by Agnes who was infuriated by her continuing single state. By 1449 there were negotiations for her marriage to Stephen Scrope, Fastolf's stepson and ward, who was at this time about fifty years old. In 1454 Agnes was reported to be impatient to be 'delyueryd of her'.¹ None of the proposed marriages took effect and in 1457-8 Elizabeth was in London with Lady Pole. She eventually married, late in 1458, Robert Poynings, second son of Robert, fourth Lord Poynings, and had a son, Edward, who was later knighted. Robert was killed at the second battle of St. Albans in February 1461 fighting for the Yorkists.² In 1471 Elizabeth married Sir George Browne of Betchworth, Surrey and had two children by him. Browne was executed for treason against Richard III on 3 December 1483 and was attainted on 23 January 1484. Elizabeth died in February 1488.

William II : 1436-1496

He was educated at Cambridge. He became one of the feoffees for Fastolf's lands in 1456 and shortly after the old knight's death in 1459 he went to London for his brother John I to negotiate administration of the estate.³ In 1469 he made an auspicious marriage to Lady Anne Beaufort, the daughter of the duke of Somerset. They had four daughters.

1. P.L. (G), ii, 224; P.L. (D), i, 150.

2. Wedgwood, Biographies, 697-698.

3. See below, pp.261-263.

After John I's death there were some conflicts of interest between him and his nephews over inheritance. After the death of his mother in 1479 he quarrelled with John III over inheritance of her land.

He was a Norfolk elector in 1459; JP for Norfolk, of the quorum, from 1465 to 1474. He was pardoned in 1471 and may well have sat in the parliament of 1470-1. His cousin by marriage, Lady Margaret Beaufort and her husband Sir Henry Stafford, found him a seat at Newcastle, and the Stafford-Buckingham interest his seat in Bedwin, Wiltshire. He was probably concerned in the Buckingham rebellion but was neither attainted nor pardoned. 'A comfortable man, cultured, wealthy, and safe',¹ he died in September 1496.

Clement II : 1442-1479

In 1458 he was in London under a tutor having already been at Cambridge. Very little is known of him from his letters. In 1466 he was associated with William II and Agnes against John II and John III in a dispute over property. He was dead by August 1479.

The Children of John I and Margaret:

John II : 1442-1479

Probably educated at Cambridge,² he was sent to court in 1461 in hopes of obtaining royal favour in litigation about property. He travelled north with Edward IV in that year and the next. He was knighted upon coming of age in 1463. Although he never married he was betrothed

1. Wedgwood, Biographies, 666-667.

2. Ibid., 666.

for many years to Anne Haute, a kinswoman of Anthony, Lord Scales, and Elizabeth Wydeville. He also fathered a bastard daughter on Constance Reynforth, to whom Margaret left 10 marks in her will.¹

From 1466 onwards he was in London a great deal seeking probate for his father's will and attempting to settle the outstanding disputes over Fastolf's estates. The next ten years, until 1476, were troubled through Paston's inability to regain control of his father's inheritance. The climax came in 1469 when the duke of Norfolk besieged Caister Castle and succeeded in driving out John III and his supporters. In 1470 Sir John reached a settlement with William Waynflete, bishop of Winchester, concerning the reapportionment of the property. However, it was not until 1476 and the sudden death of the duke of Norfolk that Paston actually recovered Caister.²

John II and his brother, John III, were staunch Lancastrians. Although he frequently complained of lack of money, Sir John lent a large sum to George Neville, archbishop of York. This was not forgotten by Warwick and Clarence in 1470 and as a result Norfolk was compelled to relinquish Caister. John II fought as a Lancastrian at Barnet in 1471, but after the Yorkist victory Norfolk re-entered the castle. Paston received his pardon on 21 December 1471 and there is some evidence that he sat in parliament from 1472-5.³ His other official posts included JP for Norfolk in 1469-70, and M.P. for Yarmouth in 1478. In October 1479 he wrote from London 'in ... feere of the syknesse',⁴ and died

1. P.L. (G), vi, 978; P.L. (D), i, 230.

2. See below, p.291.

3. Wedgwood, Biographies, 666.

4. P.L. (G), vi, 956; P.L. (D), i, 315.

there in November. He was buried 'in the Whyght Fryers at London'.¹

John III : 1444-1504

From late 1462 until 1464 he served under the duke of Norfolk at Holt Castle, Denbighshire, and Newcastle-upon-Tyne. By the middle of 1469, however, he was in command at Caister awaiting an attack by Norfolk's men and critical of John II's inaction. When the attack came he withstood the siege until he was forced to surrender about 25 September. When John II died in November 1479, John III hastened to secure his inheritance but was much obstructed by his uncle, William II. He, too, fought at Barnet and was wounded 'wyth an arow on hys ryght arme be-nethe the elbow'.² Although he was pardoned in July 1471, it was not sealed until 7 February 1472. In 1477, after many attempts to find a wife, he married Margery Brews.

He served with his brother on a commission of oyer and terminer in October 1470. He was a commissioner of the peace for Norfolk in 1480-2, and from 1483 onwards on various other commissions : to assess subsidies, array, gaol delivery, etc. On 10 March 1484 he was pardoned again.³ In 1485-6 he became M.P. for Norwich and sheriff of Norfolk and Suffolk;⁴ and by the beginning of 1487 he was the 'right trusty and right welbelouyd councellour' of the earl of Oxford.⁵ He was knighted on the field after the battle of Stoke, 16 June 1487. He was JP for Norfolk again in 1494-7.

1. P.L.(G), vi, 962; P.L.(D), i, 383.

2. P.L.(G), v, 774; P.L.(D), i, 261.

3. Wedgwood, Biographies, 665.

4. Lists and Indexes, IX, 87-88.

5. P.L.(G), vi, 1012; P.L.(D), ii, 807.

His wife, Margery, died in 1495 and shortly afterwards he married Agnes, widow of John Isley and daughter of Nicholas Morley.¹ She outlived him, dying in 1510. John III died in August 1504.

Margery : m.1477, d.1495

She was the daughter of Sir Thomas Brews of Topcroft, Norfolk. Considering the complicated nature of marriage in the fifteenth century and reflecting on the difficulties faced by Margery Paston and Richard Calle, that of John III and Margery was simplicity itself. There was a certain amount of wrangling between parents over the financial details but on the whole the romance progressed easily.²

Negotiations began in 1476 and by early 1477 Margery's mother was sympathetic to the cause. Elizabeth Brews wrote to John, 'uppon Fryday is Sent Volentyne's Day, and every brydde chesyth hym a make'. She also said that John had so enamoured himself to Margery that 'I may never have rest nyght ner day, for calling and crying uppon to brynge the saide mater to effecte'.³ Margery also wrote to John III calling him her 'ryght welebeloued Voluntyne'. She worried that her father's stubbornness might cause John to lose interest and she pleaded 'but yf that ye loffe me, as I tryste verely that ye do, ye will not leffe me thereof'.⁴ They were married that same year, 1477.⁵ By 1479 they had two sons, Christopher and William. She died in 1495 and was buried in Norwich.

1. Wedgwood, Biographies, 665.

2. Bennett, The Pastons, 46-47.

3. P.L.(G), v, 896; P.L.(D), ii, 791.

4. P.L.(G), v, 897; P.L.(D), i, 415.

5. See below, pp.220-221 for further details of the marriage settlement.

Edmond II : ca.1446-ca.1503

The date of his birth is unknown but he was probably born around 1446-7 as John III was born in 1444 and Edmond's younger sister, Margery, around 1449-50. In 1461 Richard Calle wrote advising Margaret to send Edmond 'nouthur to Cambregge nor to non other place tyll aftre Cristemesse'.¹ He did eventually go to the Staple Inn in London around 1469 but was back in Norwich by the end of 1471. He married Katherine Clippesby around 1480 and in about 1482 they had a son, Robert. Between 1486 and 1489 he was appointed by the earl of Oxford receiver of the lands formerly belonging to Thomas, Lord Scales. Katherine died in 1491 and Edmond later married Margaret Briggs who survived him by only fifteen months. He died before February 1504.

Margery : ca.1449-ca.1479, m.1469

She was probably born around 1449-50 although this is not certain. There is no mention before 1451 of any daughters. In 1469 she shocked her family by insisting on marrying Richard Calle, the Paston's bailiff. Though Margaret forbade her the house and still disapproved of her a year later (1470), she eventually left £20 to 'John Calle, sone of Margery my doughter' with reversion to 'William and Richard, sones of the seid Margery'² in her will of 1482. In view of this, it is likely that the omission of her daughter means that Margery was already dead by 1479.

Anne : ca.1451-1495, m.1477

Again the date of her birth is uncertain but it was probably around 1451-2. By 1470 Margaret wrote that 'she waxeth hygh and it

1. P.L.(G), iv, 492; P.L.(D), ii, 650.

2. P.L.(G), vi, 978; P.L.(D), i, 230.

were tyme to purvey here a mariage'.¹ By June 1472 negotiations were afoot to marry her to William Yelverton, the grandson of the judge, adversary of Justice William I. There were apparently some problems in finding her a husband for she had exhibited some preference for another of the Pastons' employees, one John Pampyng. Margaret's will left her various legacies but mentioned no children, although there is some evidence that she gave birth to a still-born child around 1479. She died in 1494-5. Yelverton died in 1500.

Walter : ca.1455-1479

Though little is known of his life, we do know that he probably went to Oxford early in 1473, and took the degree of B.A. there on 18 June 1479. He died in August of the same year and was buried in St. Peter Hungate, Norwich.

William III : 1459-1504?

He was at Eton in 1478 and 1479. By 1487 he had entered the service of the earl of Oxford. However he was discharged from service in 1504 for unstable mental health. He died around the same year.

The Children of John III and Margery:

Christopher : ca.1478-ca.1482

He is not mentioned in Margaret's will, although his younger brother is so it is likely that he was dead before 1482.

William IV : 1479-1554

He was at Cambridge around 1495. In 1493 he had married Bridget Heydon, the granddaughter of John Heydon of Baconsthorpe who had

1. P.L. (G), v, 766; P.L. (D), i, 206.

plagued the Paston family so unmercifully in the lifetimes of William I and John I. He was sheriff of Norfolk and Suffolk in 1517-8,¹ and was a knight by 1520 when he was present at the Field of Cloth of Gold. He died in 1554.

2. Violence in Norfolk

i Countywide

The history of Norfolk in the fifteenth century appears to have been a never-ending series of crimes, overlapping and intermingling until they became indistinguishable as single events and blended into a straight line which ran through months and years, and from which no one had respite. Is this an accurate impression? How do the Paston Letters illuminate this violent society? The Pastons suffered much at the hands of neighbours because of their land acquisitions but these difficulties, because of their frequency, must have their own section. Therefore there will be no discussion here of land transactions, legal or otherwise, involving violence.

Those members of the Paston family who had trained in the law would have found themselves deeply involved in all the varying legal aspects of fifteenth-century Norfolk society. Often it was this very training which caused the trouble in the first place. The preamble to a parliamentary petition in 1459 gives a graphic account of the state of lawlessness which existed at the time and with which the Pastons would have been familiar:

1. Lists and Indexes, IX, 87-88.

Great and lamentable complaints of your true poor subjects, universally throughout every part of this your realm, of robberies, ravishments, extortions, oppressions, riots, unlawful assemblies, wrongful imprisonments done unto them, unto such time as your said true subjects have made, as well for their enlarging as for the sureties of their lives, fine and ransom at the will of such misdoers.¹

With such a state of affairs, is it surprising that men who devoted their time to dealing in the law should be so unpopular with those who spent their lives breaking it?

The Pastons were not victims simply because they were professional lawyers or legally trained for then would not the sheriffs and other officers of the law also be victims? In fact, these men were often involved in crime themselves. Even was one of the Pastons responsible for bringing a criminal to trial, a felon, due to the nature of the law at this time, had a fairly good chance of escaping punishment so he would have no need to demonstrate his animosity towards his accuser. Perjury was rife for criminals wished to avoid both the wrath of great nobles and the rope. Juries and witnesses were sufficiently frightened of men like Sir Thomas Tuddenham and John Heydon to lie rather than face their anger.² We have already seen the role played by maintenance in the law; this was just another means by which men avoided being punished for their crimes.

During the fifteenth century, East Anglia suffered greatly from disorder. This is seen quite clearly in the efforts made by the Pastons, Sir John Fastolf and others to curb the illegal activities of

1. Rot. Parl., v, 367.

2. Bennett, The Pastons.

the various gangs of the time. They will be examined more closely later. It has been suggested that this disorder was a reflection of the 'Wars of the Roses' being fought on a high level and on a larger scale.¹ The outbreak of major revolts from the 1450's onwards and the relative political weakness of the rulers increased existing social tensions and gave opportunities for violent pursuit of quarrels and haphazard mayhem, and the wars probably increased local patriotism at the expense of a developing sense of English nationality.² However, East Anglia was not the only area of the country to suffer from great disorder.

Many of the Paston Letters remark on incidents of violence, though frequently the acts have been committed against acquaintances or people of note rather than members of the family itself. In 1452, John Paston I sent a petition to the Lord Chancellor concerning the actions of a man named Roger Church. Apparently Church had assembled and armed fifteen 'gentilmen and many thryfty and substanciall yomen, and thryfty husbondes and men of gode name and fame' for the purpose of rising against the king's peace, which was 'conceyved to be don of malyce'. Church was not content simply to defame the king and his council, but committed 'riottes, extorcions, aswele as the seid untrewre diffamacions' which caused many problems in the county. Paston asked the chancellor not to grant Church or his followers a pardon, that 'thei that be gilty ... be ponysshed acording to here demerytes'.³ Roger Church was affiliated with Charles Nowell, a notorious gang leader of the period,

1. Ibid., 182.

2. Goodman, Wars of the Roses, 220 and 225.

3. P.L. (G), ii, 218; P.L. (D), i, 41.

who will be discussed in further detail later.

In 1462 Margaret Paston wrote to her husband John I that the:

pepyll of this contré begynyth to wax wyld, and it is seyde her that my lord of Clarens and the Dwek of Suthfolk and serteyn jwgys wyth hem schold come down and syt on syche pepyll as be noysyd ryotous in thys contré ... Men wene and the Dwke of Sowthfolk come ther schall be a schrewd reuell, but if [unless] ther come odyr that be bettyr beloved than her is here.¹

They had been wronged again and again by the duke of Suffolk and his followers and would prefer to go up to the king with their complaints than be hanged at their doors for complaining through the regular channels. The people blamed all the unrest on the duke and his mother who were maintaining all the 'tretourys and extorsyonerys of thys contré', and it is for this reason that Margaret feared that affairs would get out of hand. So she commented that the disorder was bound to continue unless another man took over who was better loved. 'God for hys holy mersy geve grace that ther may be set a good rewyll and a sad in this contré in hast, for I herd nevyr sey of so myche robbery and manslawt in thys contré as is now wyth-in a lytyll tyme.' This letter demonstrates the power exercised by the duke of Suffolk. This point is doubly important to us because it not only illustrates the quality of order available at the time, but demonstrates the sort of all-encompassing power against which the Pastons would eventually find themselves arrayed.

The Paston Letters are excellent commentaries on the general conditions in Norfolk throughout the fifteenth century. Although they deal

1. P.L. (G), iv, 504; P.L. (D), i, 168.

primarily with incidents directly concerning the family itself, the letters constantly refer to extrafamilial occurrences as well. The incidents of physical violence which plagued not only Norfolk but most of England at the time were matters of general interest. The Pastons reflected this interest by assiduously recording all those cases which came to their notice, ranging from the execution of the duke of Suffolk aboard the Nicholas of the Tower, to obscure ambushes in distant counties. Although the various gangs which roamed Norfolk at the time were responsible for most of the violence committed, their crimes were usually directed for specific reasons at specific people. The many other acts of violence which were committed by individuals seemed to be of a more random nature (though doubtless the perpetrators would claim to have had their reasons). These crimes perhaps seemed to the Pastons all the more violent and deplorable for their randomness. It is interesting to note, however, that the Pastons report all these random acts in much the same manner. That is to say, their reactions were very much the reactions of anyone referring to violence which did not directly affect them. In 1461 Margaret wrote to John I, 'be ware howe ye ryd or go, for nowgty and evyll desposyd felachepys. I am put en fere dayly for myn a-bydyng here, and counsellyd be my moder and be other good frendys that I shuld not a-beyd here but yf the world wher in more quiete than it is.'¹ Even this sentiment, though it is self-centred, exhibits a certain detached attitude. Margaret Paston feels no more personally threatened than any other inhabitant of Norfolk.

1. P.L.(G), iii, 466; P.L.(D), i, 160.

In 1450 Agnes Paston wrote to her son, John, commenting on local happenings. She referred to an uproved attack on two pilgrims, 'they robberyd the woman and lete hyr gon and ledde the man to the see'. These pirates differed somewhat from the average criminal in Norfolk for they let the man go after they discovered he was a pilgrim.¹ The man was lucky to escape with his life for the criminals of the time frequently killed or maimed their victims. Whether this extra unnecessary violence was to prevent identification of the attacker or was simply a symptom of the time is hard to determine. Very likely it was a combination of both.

The same year, 1450, Margaret wrote to John remarking on the duke of Suffolk's 'pardon'. At the same time she mentioned that there were men terrorizing Crowmer and Yarmouth, 'and have don moche harm and taken many Englysch-men and put hem in grett destresse and grettely rawnsommyd hem'. It is unclear whether these pirates were English themselves or came from elsewhere, but the letter does illustrate the state of affairs when men were no safer from sea attacks than from land. She adds that 'folkys ben ryt sore aferd that they wol don moche harm this somer but if ther be made ryt grett purvyans ayens hem'.² In this letter, as in many others, there is no reason given for the attack except that the victims were 'grettely rawnsommyd' so one can assume that the kidnappers' aims were monetary. Could this be yet another comment on the times; that men were becoming so resigned to the violence around them that they no longer sought a reason for a particular incident? Certainly no explanations were expected (or forthcoming) for

1. P.L. (G), ii, 105; P.L. (D), i, 20.

2. P.L. (G), ii, 106; P.L. (D), i, 136.

the violence perpetrated by the various gangs. One might conjecture that this was another case of acceptance for fear of reprisals which we observed earlier in the case of the duke of Suffolk.¹

A subsequent letter from Margaret to her husband² relates the deeds of Harry Inglose who killed two men in a town called Tunstead³ and was chased towards Framlingham. At the time she was writing, the criminal had passed through Norwich and she commented that 'if he had abedyn in this town he shuld have been arestyd; for men of Tonsted and of the contré pusewid after hym in-to this town...and as it is seyð, the sergeantys were fals and lete hym have knowleche ther-of, and he hythid hym hens in hast'.⁴ This letter illustrates once again the state of justice at the local level for Margaret does not seem surprised that the sergeants should be false and warn the criminal of the hue and cry to be raised. Had men become so inured to the violence and corruption around them that they would only deprecate vaguely and refuse to attempt any reform? It seems difficult to believe that this could ever be the case, but we must point out that the ordinary person would probably be aware of the rumblings of chaos emanating from London, and it might possibly appear to him that, firstly, with corruption at such high levels, there would be no possible way the local levels could be

1. P.L.(G), iv, 504; P.L.(D), i, 168.

2. Gairdner and Davis disagree on the dating of this letter, although Gairdner places it in November 1441-1465 thus indicating his own uncertainty as to its rightful place in the chronology of the letters. Davis asserts that it was written on 14 November, probably 1453. I have accepted the latter dating as being slightly more convincing.

3. Tunstead is a small town in NE Norfolk, two miles from Cottishall. Bartholemew, Gazetteer, s.v. 'Tunstead'.

4. P.L.(G), iv, 620; P.L.(D), i, 149.

more honest; and secondly he could not hope for directives from the top concerning the improvement of order at lower levels. One might, in fact, attribute the state of lawlessness and the laissez-faire attitude of the people in the fifteenth century not so much to the violent example set by the nobles in the 'Wars of the Roses', as to the inability, due to preoccupation with other matters, of the central government to deal adequately with the problems which riddled the legal system. However, as we observed earlier, Margaret did deplore the state of affairs and prayed that good rule would be instituted. It is imperative to point out that though the people of Norfolk were not surprised by the violence in their society, no one by any means condoned it, and many, perhaps, felt unwilling or unable to complain about it. John Paston and his sons, Johns II and III, who all seem, on the whole, to have possessed much more active social consciences constantly petitioned London for redress or to inform the authorities of the lack of order in Norfolk.

In 1454 Walter Ingham was ambushed and thoroughly beaten by Thomas Dennis as a result of which he had to go perpetually on crutches. Dennis's actions were due to Ingham's demands that he repay a debt supposedly owed by his wife. Ingham had had Dennis's wife arrested by the earl of Oxford and Cardinal Kemp. Dennis wrote to Paston for help because his wife was pregnant and near labour and being very badly treated.¹ As a result Paston wrote to the earl of Oxford asking him to deal temperately with Agnes Dennis because of her pregnancy; he pointed out that although her husband might be guilty, she was not necessarily so.² Dennis, later on, also accused one of his servants of being allied

1. P.L.(G), ii, 239; P.L.(D), ii, 491.

2. P.L.(G), ii, 240; P.L.(D), i, 49.

with Ingham, and he had 'accused and diffamed me and my wif of setting up billes agayn lordis, that, Almyghti God I take to record, I not am ne never was gilty therof'.¹ Ingham petitioned the king in parliament for redress, demanding that Dennis be punished as he deserved. He asked that:

the seide Thomas Denys may abide in the seide presone of the Flete and not to be admitted to bayl nor meynprisse in noo wyse in-to soch tyme that the seide Thomas have answered to soch accion or accions as youre seide besecher schal take agaynst hym for the seid mayhayme and betyng ... consideryng that if the same Thomas scholde go at large he wolde never answeere your seide besecher, but hym delay by proteccions and other weies, so that the same besecher schulde never be content nor agreed for the exhorbitant offence done to hym ...²

This letter illustrates once again the methods available to the average man to redress wrongs. In fact Walter Ingham demonstrated restraint in dealing with Dennis. As H. S. Bennett points out, England was still too near the primitive methods of social control practised in the past to turn easily to the relatively newly developed legal controls, and:

A rough word was still too often followed by a blow and a blow by the drawing of a weapon, and by scenes of bloodshed. Men took the law into their own hands, and avenged their imagined wrongs to the very utmost, apparently trusting to fortune for their escape from the consequences.³

This primitive method of feuding and vengeance is illustrated in a letter from Thomas Playter to John Paston I in 1463. He informed Paston that the death of the cousin of the bishop of Norwich was no longer a

1. P.L. (G), ii, 244; P.L. (D), ii, 492.

2. P.L. (G), ii, 238; P.L. (D), ii, 491A.

3. Bennett, The Pastons, 172.

mystery. The servant of one Thomas Gurneys confessed to the murder which he was ordered to commit by his master. Playter added that 'in preson is bothe he and his maister'. There is no explanation of the motivation behind the murder and Playter does not seem to expect one. One assumes this is a case of private vengeance. There is an addition to this letter which reads, 'also, on Thursday next after Cristemasse was a man slayn, by whom no man woot; nor what he is that was slayn no man knowe, his face is so mangled'.¹ Yet another illustration of the random violence which plagued Norfolk, and another example of the resigned acceptance of the population to the many acts of violence being perpetrated at every turn. In this case, the lack of explanation and the acceptance of the situation was, in all probability, due to the 'removed' nature of the crime, that is, it did not affect either the writer or the recipient of the letter. If the victim had been in any way related or known personally to either Playter or Paston, one would be safe in assuming that their righteous indignation would be expressed, perhaps not in so many words, but certainly in no uncertain terms.

. It was earlier stated that the unruly conditions prevalent in Norfolk were not confined solely to that county. It was a state of affairs common to the entire country. Sir John Fortescue commented on the lack of order but he saw it as evidence of the great spirit of the country:

It hath often ben seen in England, that three or four thefes, for Povertie hath sett upon seven or eight true Men, and robbed them al. There be more Men hangyd in England in a Yere, for Robberye and Manslaughter than ther be hangyd in France for such Cause of Crime in seven years.²

1. P.L.(G), iv, 537; P.L.(D), ii, 677.

2. Sir John Fortescue, The Governance of England, ed. C. Plummer (1888), 141.

Fortescue's description was backed up by the words of the Venetian Ambassador, who wrote:

There is no country in the world, where there are so many thieves and robbers as in England; insomuch that few venture to go alone into the country, excepting in the middle of the day, and fewer still in the towns at night, and least of all in London.¹

The frequency of such occurrences made travel exceedingly dangerous and often fatal. He qualified his statement by adding that many men were arrested however. Outright murder was not as common as assault and battery which, combined with shock, would eventually lead to death. Philip Berney, the uncle of Margaret Paston, is an example of this. He was waylaid and attacked with arrows and was ridden over by a horse in April 1452. As a result of this Berney died fifteen months later.²

Sir Thomas Tuddenham and John Heydon have frequently appeared within the preceding pages. John Heydon was born in 1405, the eldest son and heir of William Heydon of Baconsthorpe, Norfolk. He was a lawyer and as such led a fairly active official life as, among other things, justice of the peace for Norfolk from May 1441 to October 1450, and from March 1455 to November 1460. He was on all the Norfolk commissions from 1438 to 1460, including a commission of array against the Yorkists in 1459. In 1442 he was exempted from being made a serjeant-at-law; in 1446 and 1447 he received pardons. In 1451 various rumours flew around as to his fate and that of Sir Thomas Tuddenham. He was put back on the bench in 1455 and appears on the Pardon Roll that same

-
1. C. A. Sneyd, ed., A Relation, or rather a True Account of the Island of England (Camden Society, 1847), 33-34.
 2. P.L.(G), ii, 241; P.L.(D), i, 48.

year.¹ Sir Thomas Tuddenham (b.1401) led a far more important official career than his partner, John Heydon. From 1446 to 1450 he was Clerk of Keeper of the Great Wardrobe; and from 1458 to 1460 he was Keeper of the King's Wardrobe and Treasurer of the Household. As well as these positions, he was also sheriff of Norfolk and Suffolk, 1432-3. In 1450 he was indicted with Heydon and Wyndham and was to appear before a commission of oyer and terminer at Lynn that year. By July 1451, he and Heydon were again powerful and he was pardoned all his debts, except £200 he owed the king. Tuddenham was elected for the county in 1453, but not in 1455 as the sheriff proclaimed that the elections that year should be free and open, so Tuddenham was not elected. It was not until after the battle of Northampton in 1460 that he was compelled to give up his position as Keeper of the King's Wardrobe and Treasurer of the Household. Even after this, he succeeded in getting £491 from the Yorkists as expenses owed to him from his position in the household.² These men were generally believed to be the tools of the duke of Suffolk.³ John Heydon was also involved with the Pastons on a more personal level.⁴

In 1451 John Paston and his friends raised such a clamour against Tuddenham and Heydon that a commission of oyer and terminer was sent to Norfolk to deal with the problem. These two men had instigated a reign of terror in the county; no one was safe from their wrath. Sir John Fastolf commented in 1450 that he hoped that proper judgement would be

1. Wedgwood, Biographies, 452-453.

2. *Ibid.*, 880-881.

3. Bennett, The Pastons, 5.

4. John Heydon was the man who urged Lord Moleyns to seize Gresham from the Pastons in 1448. He asserted the manor was Moleyns's property. For further details see below, pp.231-236.

passed down against the two. 'For', he wrote, 'it shewyth well by what manyfold undewe menys of extorcion they [the victims] have lyved yn myserie and grete pouverte by manye yeers contynewed that the moste part of the comyners have litill or nought to meynteyn their menage and housold, ne to pay the Kyngs taskys, nothyr theyr rents and servises to the Lordz they be tenants untoo.'¹ It might be remarked that the crimes they committed were fairly common : embracery, maintenance, etc., but one must emphasize that it was the degree to which these methods were employed which caused such unrest.

With the fall of William de la Pole, duke of Suffolk, in 1450, Tuddenham and Heydon suffered a slight setback in their criminal careers. Early in 1451, however, James Gloys, the Pastons' chaplain, wrote to John I that Heydon might be regaining his power:

Item, Heydons men brought his awyn hors and his sadyll thourgh Aylsham on Monday, and thei comyn in at the Busshoppes gates at Norwhich and comyn over Tomelond and in-to the Abbey. Thei a-bedyn there all that nyght and ij days after, wenyng to men of the town that Heydon had go over the fery and so in-to the Abbey; and sythyn thei seyde thei shuld go to London for Heydon. Item, sum seyn that Heydon shuld be mad a knyght, and myche othre langage ther is which causyth men to ben aferd, wenyng that he shuld have a rewle a-geyn.²

By the time the commission of oyer and terminer arrived in Norfolk, the two men were once again firmly entrenched. Margaret wrote to her husband that there were rumours that he, the earl of Oxford and Justice Yelverton were indicted in Kent for demanding the commission come to

1. P.L. (G), ii, 162.

2. P.L. (G), ii, 179; P.L. (D), ii, 474.

Norfolk. She added that the people who were against Tuddenham and Heydon were frightened by these circumstances and by the fact that the two men were 'well at ese and have as grett rewill as ever they hadde'.¹

When the commission arrived it was found that one of the commissioners, Justice Prisot, was very friendly with Tuddenham and Heydon. This partiality was so marked in the sittings of the commission that one of his colleagues, Justice Yelverton, rebuked him, but in vain. Due to this, the complaints registered by the city of Norwich, the town of Swaffham, Sir John Fastolf and others had no effect at all. Prisot was turning a totally blind eye to the outrages committed by Tuddenham and Heydon.² This was particularly outrageous to the bailiff of Swaffham who had gone, in January 1451, to London to speak to the Lord Chancellor. He had warned him that if the king pardoned Tuddenham and Heydon, 'the shire of Suffolk wold paye no taxe; for what nedyth the Kynge for to have the taxe of hese pore puple whanne he wyll not take hese issues of thoo ryche extorssioners and oppressours of hese puple ... he told hym that there was up in Norffolk redy to ryse vm¹ and moo yf they have not execucion of the oyre and terminer'.³

Prisot felt that Norwich was too antagonistic towards his friends so he adjourned the court to Walsingham where support for Tuddenham and Heydon was stronger. Here he would allow no man to speak against the defendants except very briefly and then he raised objections at every turn.⁴ After this travesty of justice, the inhabitants of Swaffham

1. P.L. (G), ii, 180; P.L. (D), i, 137.

2. P.L. (G), ii, 192.

3. P.L. (G), ii, 170; P.L. (D), ii, 471.

4. P.L. (G), ii, 192.

once again petitioned, this time to parliament. The means they had used to suppress Tuddenham and Heydon were fully explained and they then asked for parliamentary assistance. The petition contained a list of the adherents of the two men and the crimes they had committed. They had 'petously and synnefully don and committed the trespasez, offencez, wronges, extorcyons, mayntenauncez, inbracereyes, oppressions, and periuryes'. Tuddenham was also accused of embracery: 'the jury ... durst not for drede of the horrible manaces of the said Ser Thomas otherwise do but be for-sworn in gevyng their verdite in the same assise, in which case the seid inhabitauntz for pyté and remorce of their concyencez wer lothe to sew a writ of atteynte' for fear that the power of the two men extended so far into the government as to render its authority null.¹

The government did respond to this cry from the counties, for in the following year (1452), the duke of Norfolk was sent in to inquire into the disturbances and to deal with them as he saw fit. It was also his responsibility 'to know in serteyne, by yow that knowe the trowthe, by what persone or personys the seyde gret riotts, extorcions, oryble wrongis and hurts be done'. In his declaration of intent he ordered all those who had information to 'spar neyther for love, drede, ne fer ... but that ye sey the soth by whome such offences be done, and that ye spar no man that ye knowe guilty'. If this was done he swore by his allegiance to Henry VI 'they schal be chastysid after ther desert, and hit reformyd as law requyrith'. He warned the men in question, Lord Scales, Tuddenham and Heydon, and Sir Miles Stapleton,² that, although

1. P.L.(G), ii, 185; P.L.(D), ii, 881.

2. For Sir Miles Stapleton, see below, pp.212-214.

he might not always be in Norfolk, his power would be, 'to do the Kyng our soverayn Lord servyse, and to support and maytene yow alle in your right that ben the kyngs trewe lige men'.¹

After this show of strength from the central government one would expect that Tuddenham and Heydon would be held under sufficient control to prevent any further acts of violence. Indeed we hear very little of them until Edward IV ascended the throne in 1461. In June of that year great depression set in when it was rumoured that they had made their peace with the new king due to the good graces of his sister Elizabeth, duchess of Suffolk, who had invited them to join her train at the coronation. In July, the gentry of Norfolk were contemplating an appeal to Edward to deal with the recent increase in disorder, the result of the preceding few months of violent fighting in the struggle for the throne. In December the new sheriff, Sir Thomas Montgomery, and one of the justices of the King's Bench, William Yelverton, went down to Norfolk to deal with the disorder. Montgomery was a member of Edward IV's household and, although he had little power in his own right, he managed to deal fairly effectively with the upsurge of disorder.² From this point in the letters we hear little or nothing of the activities of Tuddenham and Heydon.

John Heydon managed, in a way, to make his peace with the Yorkist government. In 1461, however, the sheriff of Norfolk named Tuddenham and Heydon 'to have bills put against them'. In June, it was remarked, with regret, that they had obtained pardons. Heydon got a general

1. P.L. (G), ii, 210.

2. Lander, Government, 231.

pardon in 1462 and continued his legal career. In February 1470 and again in November 1471 he was pardoned, presumably by each faction in turn. He died 27 September 1479.¹ Sir Thomas Tuddenham was arrested in 1461 as an adherent of Henry VI. Although John Heydon received a pardon that year, Tuddenham did not and with the earl of Oxford, William Tyrell, and John Montgomery, he was arrested on 12 February 1462. He was beheaded on Tower Hill on 23 February with the other two commoners.²

There were other groups of men who were terrorizing the countryside at the same time as Tuddenham and Heydon. Perhaps the most frequently mentioned was a group led by a man named Charles Nowell. Earlier we remarked on the activities of Roger Church and his probable connection with Nowell. His crimes were very much in the style of Charles Nowell so it is more than likely he was an accomplice. In fact he is listed with Nowell in a letter.³ As with the case of Tuddenham and Heydon, several gentlemen of the county of Norfolk drew up a complaint against Nowell and his following. It appears that at this time (1450) this gang had been keeping the area east of Norwich in a state of alarm and confusion. Apparently no one and nowhere was safe:⁴

Item, the seid felechep make seche affrayis in the contré abowte the said Ledehams place, and so frayith the people, that divers persones for feer of mordyre darnot abyde in her howses, ne

-
1. Wedgwood, Biographies, 452-453.
 2. Ibid., 880-881.
 3. P.L.(G), ii, 217; P.L.(D), i, 40.
 4. P.L.(G), i, 112.

ride ne walke abowte ther ocupacions wyth-
owte they take gretter people abowte hem then
acordith to her degré, wheche they wolnot do in
evel exaample gevyng.¹

The activities of Charles Nowell's gang appear, from descriptions, to have involved more actual physical violence than those of Tuddenham and Heydon. On Mid-Lent Sunday 1452 the gang attacked two servants of the bishop of Norwich inside the church at Burlingham. It is likely they would have killed him as he knelt at Mass had they not been stopped. On 6 April they attempted to break into the White Friars at Norwich on the pretence that they wished to hear evensong. However, their ruse was not successful, for earlier they had publicly announced their intention to get hold of certain people alive or dead and the doors of the friary were shut against them.²

The Paston family did not remain untouched by the activities of the Nowell gang. John I complained that Nowell himself and five of his accomplices attacked him at the door of Norwich Cathedral. One of the two servants with him received a blow on his head with a naked sword, and Paston himself had his arms bound behind him while one of the company struck him.³ It was due to ill-treatment at the hands of Charles Nowell's gang that Philip Berney passed the last fifteen months of his life as an invalid and finally 'passed to God with the greatest pain that I ever saw'.⁴

We have already observed that the duke of Norfolk came down to the county in 1452 to deal with the disorder. On 23 April of that year,

1. P.L.(G), ii, 217; P.L.(D), i, 40.

2. P.L.(G), i, 112-113.

3. P.L.(G), i, 113; ii, 217; P.L.(D), i, 40.

4. P.L.(G), ii, 227.

the sheriff of Norfolk received a petition to be passed on to the duke concerning Charles Nowell. Presumably this document contributed, to a certain degree, to the resolution of the duke to look into the situation. The petition states that the writers wish to inform 'his Highnesse of divers assaughtes and riottes mad by Charles Nowell and othre ageyn the Kynges lawe and peaswyth-ought any cause or occasyon'.¹ John Paston also wrote to the sheriff of Norfolk concerning Nowell's attack on him. He found it a wanton act and was at a loss to understand Nowell's motivation. Here we find an example of the righteous indignation of which we spoke earlier. Paston wrote:

Whech was to me strawnge cas, thinking in my conseyth that I was my Lords man and his homagier, or Charlis knew hys Lorscheipe, that my Lord was my good Lord, and that I had be wyth my Lord at London within viij [days?] bey for Lent, at which tyme he grantyd my his god lordship, so largely that it must cause me ever to be his trew servant to myn pow[er].²

This indignation is, to an extent, very naive, for Paston openly states that he is playing by the rules in acquiring for himself a 'good lord'. Nowell knew this, and yet he had the presumption to attack him outside the very gates of his patron's jurisdiction.

When the duke arrived on the scene he was presented with a list of outrages committed by the gang as well as the names of its members. It was asserted that the men above named 'issu ought at her pleser, sumtyme vj, sumtyme xij, sumtyme xxx^{ti} and mo, armed, jakked, and salettyed, wyth bowis, arwys, speris, and bylles, and over-ride the contre'

1. P.L.(G), ii, 211; P.L.(D), i, 42C.

2. P.L.(G), ii, 212.

and oppresse the people and do many orible and abhomynable dedis lyke to be distruccion of the shire of Norffolk!¹

In 1454 the inhabitants of Norfolk once again petitioned against the gang, though on this occasion the crimes listed were allegedly perpetrated by Robert Ledeham, an erstwhile accomplice of Nowell. Whether he was still with the old gang or had broken away from them we cannot tell. However, this document does mention a 'mysgoverned felouship', so we know at least that he was not working alone. The petitioners requested that Ledeham should not be allowed to remain at large until the time his indictment came up, 'and that the sayd Ledham fynde surté of his good aberyng'.² Thus we see that Gairdner was right when he wrote:

But if any man expected that the power of duke or king could suddenly terminate the reign of anarchy, and initiate an era of plain impartial justice, he must have been a sanguine mortal.³

It is evident that the state of society in Norfolk was such that even the intervention of a man as powerful as the duke of Norfolk would have had little lasting effect. The Pastons were not only sinned against but were sinners themselves. In 1458 John Paston I and William Paston II were accused of wandering through parts of Norfolk 'lying in wait for the king's lieges and beating and maiming some and burning their homes'.⁴

1. P.L. (G), ii, 217; P.L. (D), i, 40.

2. P.L. (G), ii, 241; P.L. (D), i, 48.

3. P.L. (G), i, 114.

4. C.P.R., 1452-61, 491.

The attacks on John Paston by Tuddenham and Heydon and then by Charles Nowell were not by any means the only episodes of physical violence. The status of the Pastons, first as the family of an influential justice and then as the inheritors of the sizeable Fastolf fortune, left them open to frequent attacks both physical and verbal. An example of the latter occurred in 1424 against Justice William Paston. In that year an unknown assailant 'felonowsely slowen and mordered [John Grys, hese sone, and hys man] in the most horrible wyse that ever was herd spoken of in that cuntré'. At the same time William Paston appeared against one Walter Aslak in the courts where Walter was in suit against the prior of Norwich over the church at Sproston in Norfolk 'wher to the seyd Walter hath nothyr title suffusaunt ne right in no maner wyse by ony matier by hym declared byforn thys tyme'.¹ In retaliation Aslak posted bills around Norwich threatening to kill Paston in the same way as Grys had been killed. Paston was in no doubt of the sincerity of Aslak's threats and did not dare to go out of the house.²

Wher-up-on the seyd William for hese owyn persone affermyd a pleynt of trespas ageyn the seyd Walter and Richard [Kylllyngworth]. Processe contynued ther-up-on til the seyd Walter and Richard were founden gilty of the seyd trespas by an jnquisicion ther-of takyn in dwe and lawefull fourme ...³

The suit did not end there however for Walter refused to abide by the judgement and Paston was put to further difficulties attempting to deal

1. P.L. (G), ii, 6; P.L. (D), i, 5.

2. Bennett, The Pastons, 186.

3. P.L. (G), ii, 6; P.L. (D), i, 5.

with the situation. As a result of his refusal, Aslak was imprisoned at Norwich but he escaped. Later he caused the duke of Norfolk 'by hese sotill and ungoodly enformacion'... to be hevvy lord to the seyde William'.¹ Aslak himself became the retainer of the duke and thus he was able to avoid any writs or law suits directed against him. Aslak wrote to the duke of Bedford informing him of the situation asserting that Paston had represented him unfairly to Sir Thomas Erpingham 'justice of pese of the schire of Northfolk'. While he, Aslak, was obtaining the surety he required Paston entered a plea of trespass against him. Upon this Aslak was arrested and put in prison, and Richard Killingworth, who was truly guilty, was released. This explained his escape.² William Paston did not lead a blameless existence but after this débâcle with Aslak he was able to avoid anything else on the same scale.

In 1448 James Gloys, the family chaplain, was attacked on his way back from town by a man named John Wymondham. As a result, wrote Margaret, he was driven into 'my mother's palce' for refuge. She adds that as she and her mother came out of church this same Wymondham 'called my moder and me strong hores'. Margaret returned all the insults she received from Wymondham thus illustrating that she was capable of more than simply deploring the shocking state of order in the countryside. In fact, she might, from this incident, be accused of contributing to it. In any case, the fact that she retorted leads one to think that perhaps the Pastons were not always the victims of wanton, baseless attacks but were, perhaps, as provoking and annoying as any

1. Ibid.

2. P.L. (D), ii, 867.

other victim. Gloys was assaulted again later on, this time by an unidentified assailant. Therefore she, Margaret, sent Gloys to her husband for his safety.¹

Margaret wrote to her husband John I in 1461 advising him to remain where he was (presumably in London). She wrote that 'ther is leid awayte up-on you in this cuntré yf ye come here at large, to bryng you to the presence of suyche a lord in the north as shall not be for your ease, but to iopardie of your lyf or gret and importable losse of your goodes'. She said that he would do better to delay his return 'in-to this cuntré til ye here the world more sewer'.² The explanation of this has to do with the Fastolf inheritance, for the men who arranged the attack were looking to establish themselves as the premier family of the county and Paston's new status prevented this. A further example of violence toward the family or their friends and servants due to their Fastolf inheritance occurred in 1465 when certain of their servants and well-wishers were 'taken at Heylesdon be the balyf of Ey, callid Bottisforth, and led for to Cossey, and ther thei kepe hem yet wyth-ought any warant or autoryté of justice of peas'. Margaret added that these same abductors said they would find all Paston's tenants and well-wishers whom they would treat in the same manner.³ This episode occurred at the time that the duke of Suffolk was attempting to seize the Paston manors of Hellesdon and Drayton.⁴ This period was fraught with similar problems for the Pastons most of which can be traced to

1. P.L.(G), ii, 77; P.L.(D), i, 129.

2. P.L.(G), iii, 432; P.L.(D), i, 158.

3. P.L.(G), iv, 616; P.L.(D), i, 194.

4. See below, pp.282-285.

the difficulties which accompanied their massive inheritance in 1459. In fact they did not abate until the death of the duke of Norfolk in 1476 when Caister finally reverted to their hands.¹

ii Violence in Norwich

It would be inaccurate to make generalizations concerning violence in Norfolk and expect the incidents we have related so far to apply to the towns as well. Norwich was very much a case unto itself. The problems which plagued the citizens of that town were for the most part municipal. However, certain incidents occurring outside its walls also involved the city and its people. The history of Norwich in the fifteenth century was a series of disturbances which had no urban parallel at that time for intensity and persistence. As a result of these, the crown twice suspended the constitution and took over the city government.²

One of the main difficulties concerned city government. Norwich had long been governed by an oligarchy and in 1414 the community of citizens began to demand a fair share in governing the city. On 14 February 1415 a compromise was reached which regulated the election of the mayor and the twenty-four (a group which was constituted of the wealthier merchants of the town and members of the merchant guilds). The common council was reduced from eighty members to sixty, and by 1417 the twenty-four had become perpetual councillors. The eventual outcome was that, although the sixty played a rôle in electing the mayor, the twenty-four remained as an aldermanic body described as de consilio

1. See below, p.291.

2. Storey, The End, 217.

maioris. Thus Norwich consisted of a governing oligarchy, a body who were cives in the fullest sense, and a communitas represented by the sixty.¹

In 1433 the oligarchy, led by a man named Wetherby,² was upset. It had been challenged by the lesser craftsmen of the city who presumably had found the compromise of 1415 unsatisfactory. In 1437 the earl of Suffolk persuaded the city to accept his arbitration in the matter and then proceeded to reinstate Wetherby as alderman. He also decreed that his accomplices in 1433 should regain the freedom of the city, though not their offices.³

In retaliation the popular party acquired Humphrey, duke of Gloucester, as their patron, and with his help Wetherby was commanded to appear before the king's council. Two commissioners were sent to supervise the next mayoral election, but one of the men, the bishop of Carlisle, had connections with Suffolk and found himself unable to keep order. On election day (1 May 1437), a crowd of 2,000 men gathered in the market place. These included one Robert Toppes, who was to prove a determined adversary of Wetherby, and eight aldermen. Because of this crowd, Wetherby and his associates were unable to approach the town hall without being attacked.

As a result of this, the king's council suspended the city government and banished Toppes and his friends to other cities in England.

1. Jacob, Fifteenth Century, 391.

2. For more information on Thomas Wetherby, see P.L. (D), i, 124, headnote.

3. Storey, The End, 219.

Within a few months of this the council replaced the Warden they had appointed with a mayor of their own choosing, one John Cambridge, a supporter of Toppes. In 1440 Toppes himself was elected mayor and Wetherby was thrown in prison on a charge of trespass.¹

Following the difficulties concerning the municipal government, Norwich was once again divided over jurisdictional boundaries with the cathedral chapter. The newly recovered civil liberties gave to the mayor and aldermen the desire to exercise jurisdiction in a wider area on the city, in particular those parts which were the prior's property. When the prior began legal proceedings in 1440 the citizens hoped to regain the aid of the duke of Gloucester but he no longer held enough power to influence the council. A commission was appointed in July 1441 to inquire into the offences of the city government. The leaders of this commission, the bishop of Norwich and the earl of Suffolk, were both predisposed in favour of the prior.²

In 1443 the city was still torn over the question of jurisdiction. On 22 January, William Hemstead, the mayor, two sheriffs, eight aldermen including Robert Toppes and his wife, and sixty-eight others, planned a rising to compel the bishop and priors of Norwich and St. Benet's to abandon their lawsuits. This led to serious scenes of violence. On 25 January, at the alleged instigation of Robert Toppes and William Ashwell, a group of tradesmen led by one Thomas Snarler forced their way into the town hall and stole the chest containing the common seal.³ In retaliation, the following day the prior of Norwich arrested

1. Ibid., 220.

2. Ibid., 221.

3. Ibid., 222-223.

two men for debt and took them to his prison. When the citizens finally gained entry into the priory, they were content to remove the sealed writing of 1424 in which the mayor of that time had admitted the prior's right to his own jurisdiction.¹

When the duke of Norfolk made an appearance in Norwich after a week of defiance by the citizens of the town, Toppes and seven other ringleaders were arrested and sent to the Tower. Sir John Clifton was appointed the king's governor and under his rule Thomas Wetherby once again gained ascendancy when John Hawk, the failed mayoral candidate of 1433, was appointed common clerk.

On 4 March a commission was sent to Norwich to inquire into the riots. The judges declared Norwich's franchise forfeit and imposed a collective fine of £2,000, later reduced to 1,000 marks. As well as this, cases were heard against individual rioters and they paid fines totalling £1,504 17s. 4d. By these trials the city remained in the king's hands for four years. In 1447, the citizens applied to the King's Bench for a formal conclusion of the proceedings and on 12 November city liberties were re-granted, the fines having been adjudged paid.²

In reviewing these years of upheaval in Norwich it will be noticed that much of the violence was verbal rather than physical. It will also be noticed that only two long-term problems were discussed. This does not mean that Norwich was crime-free apart from the contentions over government and jurisdiction. We have seen, in fact, various incidents

1. Ibid., 223-224.

2. Ibid., 224-225.

when men were attacked within the city walls. Evidently, the more careful control and governance allowed by the smaller size of the city compared to the county as a whole did not exclude it from its share of violence.

iii Conclusion

The preceding pages have established the lack of order in Norfolk during the fifteenth century. It would be difficult to pin the blame for this disorder on any one factor but it must be admitted that the tensions which existed among the nobility virtually from the accession of Henry VI were definitely contributory elements. One cannot assert that the problems at the lower, county level occurred in imitation of those shaking the foundations of the central government; that they were the same partisan struggles fought on a lower level. And yet, to a certain extent, one would not be far wrong if one were to make this comparison. The conflicts on the two levels may not have occurred for exactly the same reasons, but similarities definitely existed. 'Civil wars; private wars ...; the strife of nobles and gentry contriving for the mastery of counties or districts; all went on side by side.'¹ It was under cover of these conflicts that the cut-throats and robbers carried on their activities. Since many of these men were under the patronage of greater men, laws and statutes were passed in vain:

The times were troubled and confused; and in the midst of all this internal anarchy, the weak and innocent masses of common people suffered and endured as best they could.²

1. Bennett, The Pastons, 192.

2. Ibid.

Is it any wonder in this case that the Pastons dedicated so much time to reporting criminal behaviour, or that Margaret Paston should write:

God for hys holy mersy geve grace that ther may be set a good rewyll and a sad in this contré in hast, for I herd nevyr sey of so myche robry and manslawt in thys contré as is now wyth-in a lytyll tyme.¹

1. P.L.(G), iv, 504; P.L.(D), i, 168.

CHAPTER THREE

The Pastons and the Legal Profession

1. The Legal and Official Activities of the Pastons and their Circle

I grete yow wel, and avyse yow to thynkke onis of the daie of yowre fadris counseyle to lerne the lawe; for he seyde manie tymis that ho so ever schuld dwelle at Paston schulde have nede to conne defende hymselfe.¹

Thus wrote Agnes Paston to her son, Edmond I, in 1445. As we shall see, the Paston men's knowledge of the law was vitally important, not only to the preservation of their family from persecution, to which they were increasingly liable as their fortunes increased, but in their ability to undertake legal action at the behest of their various clients.

At this time the law was rapidly becoming a popular lay profession. Sir John Fortescue alleged that many parents sent their sons to study law as a means whereby they might learn good manners and, presumably as a result of the amount of study required by the course, might be preserved from developing the vices common to young men. In reality this did not always work out as desired for lawyers were not particularly noted for their courtesy, and were, in fact, consistently under attack for their avarice.² However:

1. P.L.(G), ii, 62; P.L.(D), i, 14.

2. Ives, 'The Reputation of Common Lawyers', 132.

Far from being carrion which fed on the corruption of morals, lawyers supplied a skill which was essential to all, king, cleric, noble, gentleman, burgess and commoner alike.¹

Justice William Paston saw the law as a means to a clearly defined end. He realized the probability that the family fortunes which he was assiduously accumulating would require defence in later years, and so he wished his sons to be prepared to deal with potential legal actions.² In fact only John I had any kind of legal training.

i The Pastons and the Legal Profession

a As Lawyers

As we have seen,³ a career in the law was one of the few ways families were able to advance up the social ladder and accumulate great wealth. It was also these new members of the landed gentry who provided fresh blood and revitalizing money in the form of dowries and jointures to the older established families, thus prolonging their existence.⁴ The law was the only secular calling which offered the training and organization of a developed profession; lawyers achieved a monopoly of talent and therefore they played a major part in the development of a new echelon in society.⁵ The law was not, however, an easily acquired profession, it took many years of study and practice before one was regarded as a competent lawyer. In 1467, William Paston II wrote to

1. Ibid., 161.

2. Bennett, The Pastons, 105.

3. See above, pp.93-97.

4. Ives, 'Promotion in the Legal Profession', 348.

5. Ives, 'Reputation of Common Lawyers', 130.

his nephew, John II, concerning the Fastolf inheritance, and his words indicate, to a certain extent, the problems one might encounter in the business of law:

take hed to get suyrtés for the pore men that come up, and that they may be sent hom a-gen forthe-wyth wyth-owt taryying; and take avyse so that the proses may so go forthe that they may be qwett at the nexst assysys ... speke to yowr attorney in the Kyngys Benche that he take hed to all maner jndytamentys, both old and new, and to all oder materys that hangyng there.¹

John II was not a lawyer and had in fact not even been to Cambridge or Oxford. Increasingly in the fifteenth century students at the Inns of Court had already spent several years at a university.² Although William II had never gone to the Inns of Court he had been to Cambridge³ and so he was competent to a degree to advise his nephew.

The study of law was a lengthy process in the middle ages; it took about twenty years to achieve the highest degrees in the profession and therefore it was an expensive proposition. This was no deterrent to ambitious gentlemen and their sons or the occasional son of a merchant. The first step was to attend an Inn of Chancery for a year or two to receive a basic grounding in the law.⁴ Edmond Paston II wished to attend an Inn in 1469 but never did.⁵ Even at this level of legal training we find students being diverted into apprenticeships to clerks or

1. P.L. (G), iv, 664; P.L. (D), i, 92.

2. Hastings, Common Pleas, 62.

3. P.L. (D), i, p.lvii.

4. Hastings, Common Pleas, 61 and 63.

5. P.L. (D), i, p.lxi.

attorneys of the court instead of continuing their studies.¹

After a student had completed these years at the Inn of Chancery he was admitted to one of the greater Inns. Here he would expect to remain, providing he did not weary of his studies, for twenty years or more awaiting ordination as a serjeant-at-law. His years at an Inn of Chancery had made him proficient in rudimentary law and writs² and no doubt many students dropped out before joining an Inn of Court, thereby becoming one in the vast throng of semi-trained lawyers. Although some of these men held no more than amateur status others were professional attorneys. In some cases they had no more knowledge of the law than the majority of landowners³ who had need of the basic grounding 'to conne defende hymselfe'.⁴

'In practice, it is impossible to draw a distinction between the two groups; they differed in degree not kind.'⁵ One cannot confine the lawyers of the central courts to Westminster Hall. They went into the provinces to carry out assorted legal business, keeping manorial courts, acting in local government, and running estates. These were important functions, integral parts of a lawyer's duties not simply in the early stages of his career. They were the foundation of a Westminster practice.⁶ If a man left the Inns of Court these duties could become his entire career. Both William Paston I who stayed in

1. Hastings, Common Pleas, 64.

2. Ibid.

3. Ives, 'Common Lawyers', 149.

4. P.L.(G), ii, 62; P.L.(D), i, 14.

5. Ives, 'Common Lawyers', 148.

6. Ibid., 149-150.

London to become a serjeant-at-law and eventually a justice, and his son John I who left the Inner Temple before attaining any outstanding rank, were frequently involved with commissions in the counties. Despite William's primary interest in the courts at Westminster, like his colleagues in the law, he was deeply involved in the counties as a landowner, and as a justice of the peace.¹

Although local lawyers can be shown to have been trained at the Inns of Court with their London counterparts this does not mean that every petty expert was an Inn of Court man. Local bailiffs, like Richard Calle, would have acquired their knowledge through observation, self-education, or by trial and error. Training in the law was the avenue to every variety of administrative post not simply the means of entry into the central courts.²

The law student began his career in an Inn of Court as an inner barrister. After six to eight years he became an utter barrister. The highest honour conferred on him by the Inn was the call to read. This automatically elevated him to the Bench of the Inn.³ A Bencher had to be a man of wide legal experience and considerable professional standing. Each group of Benchers in the several Inns regulated the rest of the profession and had a tight grip on most of the higher legal posts. It was from this group that serjeants-at-law were chosen, as well as barons of the Exchequer, law officers of the crown, and recorders of the larger towns. Advancement to the Bench seems to have been confined to those men who practised in the four great law courts; a barrister

1. Ibid., 150.

2. Ibid., 151 and 153.

3. Hastings, Common Pleas, 67.

could appear at any of the lesser courts immediately after his call. Those men who were successful in establishing a practice stayed on the ladder of promotion and progressed according to seniority. The remainder dropped out of the stream of advancement.¹

Candidates for the degree of serjeant-at-law were a minority of the whole number living in the Inns or taking part in the Inn's activities. Elevation to the degree meant leaving behind the Inns of Court and moving to the more sober serjeants' Inns.² All junior legal posts had to be relinquished upon attaining the degree of serjeant-at-law; however, the serjeants became eligible to serve on assize commissions.³ It was a very expensive degree to undertake; Fortescue wrote that in his day no one could pay for the feast and required gifts with less than £266 13s. 4d. (400 marks).⁴ It is not difficult to understand why certain apprentices tried to avoid taking up the degree and why, after 1412, a monetary penalty of £1,000 was imposed for refusal. Despite this, the financial rewards of the rank were a not inconsiderable recompense for the loss of business which accompanied the degree.⁵ The importance of the judicial functions of the serjeants was apparent in the fact that, by the fifteenth century, justices of the central courts were appointed solely from the body of serjeants-at-law. Once the order of the coif had been bestowed it was simply a matter of time before the serjeant attained the position of justice. The certainty of this can

-
1. Ives, 'Promotion in the Legal Profession', 349 and 353-354.
 2. Hastings, Common Pleas, 70-71.
 3. Ives, 'Promotion in the Legal Profession', 356-357.
 4. Hastings, Common Pleas, 74.
 5. Ibid., 74-75; Ives, 'Promotion in the Legal Profession', 355.

be seen as another reason for the number of refusals to take the coif.¹

It is clear that justices of the Bench were no novices in the law. Their experience as students, practising lawyers, administrators, and as serjeants prepared them, as nothing else could, for the various problems they would encounter in their careers on the Bench. They did not remain exclusively in London but continued to travel around on various commissions.² These included commissions of special inquiry, assize, oyer and terminer, and of gaol delivery; the only change was an increase in the number of commissions, and in their responsibilities. They received payment for acting on these commissions as did other men but it was not enough to support them and so justices also received payment from parties wishing to sue in the courts.³

The difference between those men with some legal training and those who remained at the Inns of Court hoping to attain the degree of serjeant was not so much a difference in education as a difference in the amount of education. John Paston I acted as a legal adviser on many occasions although he was not at the Inner Temple long enough to attain the degree of serjeant. Justice William does not seem to have dealt with as many individual cases as his son despite the fact that he passed through all the progressions in a legal career. This only indicates that as a justice of the Common Pleas he was more involved with the courts in London and the various commissions with which a justice was

1. Ibid., 359.

2. See below, pp.184-200.

3. Hastings, Common Pleas, 80-81 and 83.

usually involved and probably had less time to spare as a legal adviser. Although John I was considered to be legally trained, his father was entitled to act in more instances.

The other male members of the Paston family, William II, Clement II, and Walter, all attended university, perhaps with a view to the law, but there is no evidence for this. Certainly William II gave legal advice to his nephew, John II, on several occasions although he had never spent any time in London, and this was not considered unusual. John II, John III, and William III were, in fact, the only three male members of the family who appear not to have been at university. The latter is listed as having attended Eton but there is no indication that he planned to continue his education.¹ So we see that there were several degrees of legal expertise in the fifteenth century; but, 'although widespread, the legal profession was unified'.²

b Involvement in Legal Business

(i) As Legal Advisers - The legal cases in which the Pastons were involved can be divided into two groups: those for which the initial request for aid is extant, and those for which no request survives. Although there is no difference in the legal procedures required, they have been segregated into these two groups. Thus the examples are not in chronological order.

One of the first cases on which William Paston acted involved Nicholas, prior of Bromholm, and a man named Wortes who claimed to be

1. P.L. (D), i, p.lxiii.

2. Ives, 'Common Lawyers', 151.

the rightful prior. This was particularly galling to the Pastons as Wortes also asserted that he was a Paston. They knew this to be untrue and proceeded against him, taking the case as far as Rome because of its ecclesiastical nature. In July 1425 Nicholas the prior wrote to William I asking for his help that writs might be taken out against Wortes.¹ In November of that year William wrote to John Urry in Rome about the case:

The Priour of Bromholm sued a-geyn the seyd John and other in Ingeland a wryt of premunire facias, and I was ther-in of the same Prioures conseil, as the lawe of Ingelond and myn office willen, and more I have nought hadde to do with the seyd John; and I can nought beleve that in this cas the same John myght by your lawe any swigh sute have ageyn me as your lettre specifieth.²

Clearly the case had gone to Rome and John Urry was making inquiries concerning Wortes and Paston. The case was resolved against the former.

John Paston I was much the same sort of man as his father although he was not a professional lawyer. He has been described as shrewd and calculating, recognizing the interests of the county and his own as virtually identical. As a result, this man's whole energies were centred on the double service of county and family.³

In 1455,⁴ he received a letter from Sir John Fastolf explaining that the prior and convent of Norwich had withheld lands and rents from him and asking Paston to compel the prior to pay what he owed:

1. P.L.(G), ii, 8; P.L.(D), ii, 422.

2. P.L.(G), ii, 10; P.L.(D), i, 3.

3. Bennett, The Pastons, 9.

4. This letter was included twice by Gairdner, first in ii, 92, then in iii, 298. Davis points this out, counting both letters as the same. Gairdner gives each letter separate dates, 1449 and 1455; Davis chooses to rely on the latter.

Please yow to wete that the Pryour and Convent of Norwych have wyth holden certeyn rent for londes that they halden of me ... and ye ij tapers of wax of ij li. wyghte by the space of xviiij yeere that mounthyth xxjs. valued in money ... Praying yow to speak wyth the Pryour ... and that ye lyke to meove hym to make me payment as hys dewtee ys ... He holdyth xxx acres lande or more by the sayd rent, and yhyt ought to pay¹ me othyr rent more by myne evidents of more ade.

This type of letter was fairly common. Men wrote to their legal adviser requesting that he perform some routine service for them. Whether this was because they feared that the repercussions might be dangerous for themselves or whether it was simply easier for a lawyer to carry out their request is difficult to ascertain. There is certainly evidence within the Paston Letters to substantiate both arguments. In any case, as a lawyer the man would have to do as his client requested. In 1460 the earl of Oxford wrote to John I asking him to pay a bill he owed, 'We pray yow that ye woll receyve the forsayd money for us and delyver it un-to Maister Braklé as we trust yow'.² In this instance the earl's request was neither out of keeping with the duties of a lawyer nor with his own position as a member of the nobility. In this case, however, he took the rôle of patron requesting a dependant to do a job for him.

In the same year William Jenney³ wrote to John I concerning a piece of land which he claimed belonged to him but which was being held by Lord Welles. He requested Paston to discuss the matter with Welles as he was a member of his council: 'I wrighte unto you ... for my seid lordys warship that ye lyke to advertise and counsell hym that he will

1. P.L. (G), iii, 298; P.L. (D), ii, 530.

2. P.L. (G), iii, 437; P.L. (D), ii, 642.

3. See below, pp. 210-211.

lete the mater be indifferently seyn and understondyn before he procedyth ony ferder ther-jn'.¹ This is clearly a case where Jenney felt firstly that Paston's familiarity with Welles would be an advantage and, secondly, that his knowledge of the law would make his requests and advice more acceptable and palatable to Welles. Jenney himself was a lawyer but, as we shall see, it was common for one lawyer to employ another to deal with his business.

From 1446 until his death in 1461 Robert Poynings was engaged in a quarrel with the Percy family over his father's estate. In fact the quarrel outlived him and involved his wife, Elizabeth née Paston, and their son, Sir Edward.² In 1467 Elizabeth Poynings wrote to John II. A man named Sir Robert Fens had been causing havoc around a manor owned by her and her late husband, in Kent. He 'hath doon gret wast and hurte ther, and longtym hath take up the revenuez and profitez of the same, wher-thorough I have not my ryght and the seid wille may not be parfoured'.³ This case differed somewhat in that Sir John Paston was not a lawyer and therefore did not possess the powers of manipulation which pertained to members of that profession. It seems strange that Elizabeth did not write to her brother William II who had at least some knowledge of the law from his years at Cambridge. However, her nephew had been at court for some time and was familiar with its workings. This is a clear example of the use of influence.

1. P.L.(G), iii, 443; P.L.(D), ii, 620.

2. R. M. Jeffs, 'The Poynings-Percy Dispute. An Example of the Interplay of Open Strife and Legal Action in the Fifteenth Century', B.I.H.R., 34 (1961), 148. This article contains a full explanation of the dispute.

3. P.L.(G), iv, 692; P.L.(D), i, 122.

In 1461 Roger Taverham wrote to John Paston I in reply to a letter in which Paston had requested to know Taverham's inheritance upon his father's death. Taverham told him that as the elder son he was to inherit Keswick, but Lord Cromwell had secured the wardship of his younger brother in order to seize the property. He asked Paston:

to sende me a letter of attournay, made to you in my name in the strengest wise that ye can, for to entre in-to the same lyvelode, and I shall asseal that, and than I shal do my service and feauté to the seid Lorde Cromwell in all thing as by the tenure of the same lyvelode of olde tyme aught to be done.¹

He added that he was sure the king and the lord chancellor would uphold his rights in this affair.

The following examples deal with more legal matters than the preceding ones. In July 1461 John Berney² wrote to John I reporting that Sir Miles Stapleton³ was spreading rumours that he, Berney, was the killer of Thomas Dennis and was plotting insurrections against the king. In addition, Stapleton was accusing Berney of various robberies 'jn whеч defamacyones and fals noysynges the seyde Stapylton &c. in that his saying he is fals, that knowith God'. He offered to make good his defence 'as a gentyelman'. He asked Paston 'to opyn it unto the lordes that the seyde Stapylton &c. makyn gret gaderynges of the Kynges rebelyones, lying in wyte to mordre me. And in that I may make opyn proff'.⁴

1. P.L. (G), iv, 491; P.L. (D), ii, 698.

2. John Berney was a cousin of the Pastons. He was, however, not related to Philip Berney who was attacked in 1452. Wedgwood, Biographies, 70-71.

3. See below, pp.212-214.

4. P.L. (G), iii, 467; P.L. (D), ii, 637.

In November of that year Margaret Paston wrote to John I concerning a commission of oyer and terminer over the death of Thomas Dennis.¹

In 1462 John Wykes, an usher of the king's chamber, wrote to John I asking him to achieve the release of one of his tenants who had been imprisoned in Yarmouth and deliver him to Rising Castle for questioning. Apparently this tenant, John Farmer, had been arrested 'be-cause he dwellid with the Erle of Oxenfordes son, and purposid to have passid the see without lycence':

I wold desyre you that ye wold wryte to the baylyffes of Yermouth to delyver the seid John Fermour to my servaunt John Grenerigge, brynger of this, with an officere of the seid towne, to be caried un-to the Kynges castell of Rysing at my cost; ther to be examynd of certeyne artycules which I maynot disclose til I have spoke with the Kynges Highnes.²

In the 1460's (the date is uncertain) Peter Marham wrote to William II asking his advice as Robert Gaunley had taken an action against him at common law:

preyng yow that ye woldyn wochesaf to thenkyn on myn mater thys terme, for on Roberd Gaunley hath takyn an accion ayens me at the comcune lawe, the qwych was sum tyme myn prentis.³

How Marham expected Paston to help him is unclear. Since he was not qualified to plead in any court in London perhaps his rôle would have been to find someone who was and solicit his aid on Marham's behalf.

1. P.L.(G), iii, 472; P.L.(D), i, 162.

2. P.L.(G), iv, 514; P.L.(D), ii, 664.

3. P.L.(G), vi, 1087; P.L.(D), ii, 706.

The earl of Oxford wrote to John Paston I in 1460. He related to John the case between William Matthew of Norwich and Nicholas Hert, one of Oxford's tenants. Apparently Matthew claimed that Hert owed him 70s. in payment for the time that Matthew worked for him. However, Hert claimed that he owed nothing as Matthew was an apprentice not an employee. Oxford added:

I pray you that ye wole calle the jury before yow that arn impanellid betwen thaym and opne thaym the mater at large at myn instaunce, and desire thaym to do as concyens wole and to eschue periury ... If ye take the mater in rule I pray therof and wole be content.¹

This is an example of 'labouring' a jury.

The next two letters relate acts of violence, and advise John II to take legal action to stop them. In 1467, John III wrote to his brother to tell him that Yelverton's men were riding about the country armed and dangerous:

They ryd and go dayly, as well in Norwyche as in other plasys of yours and othyr menys in the contré, in ther trossyng dowbelettys, wyth bombardys and kanonys and chaseveleyns, and do what so ever they wyll in the contré.²

He goes on to advise his brother to 'get a prevy seall of the Kyng to be dyrectyd to the meyr of Norwyche, as for the towne of Norwyche, and for the contré a-nothyr prevé seall'. He felt that the only way to deal with this situation was to imprison the whole gang. This further example of the use of influence was in reference to Yelverton's reaction

1. P.L.(G), iii, 438; P.L.(D), ii, 622.

2. P.L.(G), iv, 659; P.L.(D), i, 325.

to Paston's inheritance of the Fastolf estates.¹ In 1469 Margaret wrote to her son, John II, again concerning the Yelverton gang. This time they were threatening the tenants of Guton. On this occasion Margaret wrote:

Therefore purvey an redy remedye, or ell ye lese the tenauntes hertes and ye gretly hurt, for it is gret pety to here the swemefull and petowse compleyntes of the pore tenauntes that come to me for comfort and socour, sumtyme be vj or vij to-geder. Therefore, for Goddes love, se that thei ben holpyn²

Because John II was not legally trained he was in a more vulnerable position. It was for him to seek out legal aid instead of being able to provide it himself. For this reason Margaret wrote, 'desire my brothere William to geve you good counce^{ll} here'. The necessity of seeking other men as sources of legal aid was fairly common; even if William II had been able to give John II good counsel, he would still have had to turn elsewhere had the case gone to court.

The final example included here of the Pastons as legal advisers falls into the category of advice given although no request is extant. It is evident from the letters that the Paston lawyers (so designated to exclude those members of the family who were not legally trained) practised their profession assiduously. From the many family crises with which they were faced in the years covered by the letters,³ it is difficult to see where they found the time to deal with any extra-familial problems. Nevertheless those who practised the law, William I

1. See below, pp.261-276.

2. P.L. (G), v, 701; P.L. (D), i, 200.

3. See below, pp.228-238 and 261-298.

and John I particularly, clearly applied themselves single-mindedly to their clients' problems.

In 1450 James Gresham, one of William I's clerks who continued to act as a confidential agent for John I and Margaret,¹ wrote to John I² concerning a law suit in which John Hawteyn, who was in action against Agnes Paston over the manor of Oxnead,³ had pleaded clergy. His words were:

We shuld have amendet oure plee of profession, but thanne your counseyll fereth he wolde take an issue that he is not professed, and that shuld be tried by the certificat of the Dean of Poulys, sede vacante; and therefore we abide in lawe and wole not amende our plee.⁴

These are words used by an attorney reporting back to his client.

(ii) Enfeoffments to Uses - In 1442 William wrote to his cousin Philip Berney informing him that:

ye and oder arn enfeoffed in the maner of Estbecham to myn oeps; and therupon I have in yowre name and otherys take an accion a-yens John Maryete of Crowmer, wherfore I prey yow that ye make no releasse therof to no man til I speke wyth yow.⁵

This letter concerns land held of William by a feoffment to uses, a practice which was virtually universal in the fifteenth century. Although

1. P.L.(D), i, p.lxxvii.

2. Gairdner asserts that the recipient of the letter on this occasion was one 'Maister Whyte'.

3. See above, p.229.

4. P.L.(G), ii, 128; P.L.(D), ii, 454.

5. P.L.(D), i, 10.

the occasions when the Pastons either acted as feoffees or as cestuis que use had less to do with their legal position and more with their rôles as landed gentry, their legal knowledge could only be regarded as a positive factor.

The restrictions imposed by feudal tenure upon a landowner's right to employ the revenues of his lands after his death, and the lord's rights of wardship and marriage, together led to the growth of a legal device ... known as the 'use'.¹

In this process one person, or a group, held land to the use (ad opus) of another called the cestui que use.² In 1422 William Paston I acted as a feoffee to uses of certain properties in Norfolk and Suffolk, comprised of '100 acres of land, 40 acres of pasture, and 20s. of rent' and 'the manors of Radewelle, Compton, Dureville, Hassokmore and Loxton co. Somerset'.³

In 1429 William I, acting in another use transaction, granted away certain properties:

William Paston of Paston co. Norfolk to John duke of Bedford and regent of France, Philip bishop of Ely, William bishop of Norwich, Lewis lord Bourghchier, William Phelip knight, Thomas Wallebare, clerk, William Morley, Richard Aghton and John Bertram, their heirs and assigns. Quitclaim of the manor of Fastolf co. Suffolk, which they and others had by feoffment of Richard Egate, Robert Reve and John Egate, clerks.⁴

-
1. For a full discussion of the origins and development of feoffments to uses, see J. M. W. Bean, The Decline of English Feudalism (Manchester, 1968), 104-179. This reference, ibid., 104.
 2. This phrase is the accepted shortened form of the phrase cestui a que use le feoffment fuit fait. Ibid., fn.2.
 3. C.C.R., 1419-22, 261.
 4. C.C.R., 1422-29, 463.

In this deed, dated 1 November 1429, Paston appears to have been acting in his capacity as a lawyer. This assumption is made here, and in a case dated 28 November 1429, because, although Paston is granting quitclaim of a property, he is not himself the cestui que use. In the latter example he is acting for 'Mutforde co. Suffolk and all knights' fees and advowsons thereto belonging' to several of the same men with whom he had dealt four weeks earlier. The cestuis que usent in this case were 'Thomas late duke of Exeter and Thomas Derham'.¹ There is no evidence in either of these examples that Paston had at any time held this land by a feoffment to use himself.

In 1432, Paston acted again as a feoffee to uses when Robert York, prior of Bromholm, and his convent, granted to him and Sir Simon Felbridge as well as others, certain lands in Bakton Wood, on 1 May.² Ten years later, in 1442, he and two men, Robert and Edmund Clere, secured 'certain copyhold lands with two mansions thereon in Paston and Edithorp, Norfolk, held by the feoffees of the Duchy of Lancaster'. This transaction was different from the others we have discussed in that they received these lands only in exchange for 'other lands, called Charterhold, with the two mansions thereon, in the same places'.³ The exchange of land for land was not a particularly unusual practice. Generally land transactions were mutually reciprocal but in most cases land was granted as a reward for an action or in a cash deal.

Paston and the Cleres again appeared in 1443, though on this occasion they were neither grantors nor recipients except in a removed

1. Ibid., 465.

2. P.L. (G), ii, 23.

3. P.L. (G), ii, 42.

sense. Certain charterhold lands which they had granted to Henry VI were to be demised (demittere et tradere) to the undertenants (bassis tenentibus) in exchange for certain copyhold lands. Paston was not in charge of this transaction; it was left to Sir Roger Frenles, chief steward of the duchy lands in Norfolk, and Sir Thomas Tuddenham.¹

The next example of a feoffment to uses involving Paston occurred in 1431. Robert, lord Willoughby, wrote to William Paston, one of his feoffees:

We pray and require yow right hertily ... and also we charge yow ... that after the fourme, teneur, conteneue, and effecte of the deedes, lettres, and endentures maad and passed theruppon ... ye make ful and plain estat unto oure said brother Oldhalle and Margarite his wyff duryng thaire lyffs ... of the saide annuité and pension of vj^{xx} marc yerely in the landes and tenementes declared, named, and specified in the saide deedes, lettres, and endentures withynne the contees of Northfolk and of Suffolk abouvesaide; and that ye faille not hereof.²

Willoughby was exercising his prerogative as a cestui que use. He was instructing one of his feoffees to demise his property as he specified. This was one of the conditions involved in undertaking a feoffment to uses. In order to ensure that his directives would be carried out, the cestui que use would be very careful in choosing feoffees. Magnates tended to choose retainers so they would already be bound by loyalty and service; churchmen were also popular choices. Often some feoffees were also appointed executors so there would be some church supervision and thus some indirect, however unofficial, control over their activities as feoffees.³

1. P.L.(G), ii, 48.

2. P.L.(G), ii, 22; P.L.(D), ii, 424.

3. Bean, The Decline, 154.

An example of a feoffment to uses in the next generation of Pastons occurred in 1464 when power of attorney was granted by Roger Fidyon, clerk, and William Bondys to Richard Lynstede, John Holme and John Brikkes to take possession of a manor called Horninghall in Caister 'with appurtenances in Castre, Maudeby, Ormesby, Filby and Scroudeby, or elsewhere in the hundred of East Flegge, Norfolk'. These men were also granted the power to deliver seisin of these properties to:

Agnes Paston, William Paston, Elizabeth Countess of Oxford, John Veer, Earl of Oxford, John Scroop, Knight, Lord Scroop, Sir William Yelverton, Elizabeth Cleere; William Jennay, John Grenefield, John Catesby, Serjeants-at-law; John Hastynges, John Clopton, John Calthorp, Hugh Fen, Thomas Cornwaleys, Thomas Howes, clerk, Roger Marchall of London, Henry Spilman, William Lomnour, Bartholemew Whyte, William Whyte, John Appleyerd, James Arblaster, William Wurcetyr, and Richard Maryot, according to a charter granted to them by the seid Roger and William,¹

It is interesting to note the many familiar names which recur here and elsewhere, involved continually in Paston family history.

Enfeoffments to uses were temporary and as such they brought no land to the family, and were of no financial benefit. However, they were an accepted part of fifteenth-century legal processes, and they were equally accepted by those men and women who undertook enfeoffments. As those people who were feoffees were also frequently the cestuis que usent, it benefitted everyone to do so.

1. P.L. (G), iv, 566.

(iii) Pastons as Suitors - Simply because the Paston men worked with the law does not mean that they could not be prosecuted by it.¹ The Paston family frequently appeared within the letters as legal suppliants. They were often compelled to seek redress or aid from a third party. For example, in July 1450 Henry Sotell, a member of John I's council, and later Attorney-General, gave it as his opinion that in the affair over the manor of Oxnead² Paston had the law on his side. C. Richmond feels he probably had the same opinion concerning Moleyns's claims to the manor of Gresham which were occurring at about the same time.³ Most of the letters which deal with the Pastons' problems are of a legal nature; mentions of writs or of special assizes held. For example, on 16 October 1456, James Gresham wrote to John I to remind him of the date of his assize. He closed by warning, 'I trost ye wole be here, or ellis can I do lytell or nought ther-inne'.⁴

Just as a physician should not heal himself, no more should a lawyer solve his own case. The Pastons relied on outside lawyers to help them on many occasions. In 1461 Sir John Heveningham wrote to John I referring to a letter of attorney which Paston had sent him:

Ser, ye sent me a letter off atorney to reseve and to ocupye in youre name the maner called Burnevyles in Nakton. Ser, as for that ocupacion I can lital skylle on, ne I wel not take up-on me non suche ocupacionis; wherffore I beseche you holde me excused, for it is no werd for me to take suche ocupacionis. I have as moche as I may to gader myn owne lyfflode, and truli, cosyn, I can not gadere that well. And therffore, cosyn, I pray you take it to non displeaser.⁵

1. See below, pp.261-276.

2. See below, p.229.

3. See below, pp.231-236 ; Richmond, John Hopton, 183-184.

4. P.L.(G), iii, 348; P.L.(D), ii, 567.

5. P.L.(G), iv, 494; P.L.(D), ii, 651.

This clearly has to do with the Fastolf inheritance for the manor in question was one of those which had become Paston property in 1459.¹ The reason why Heveningham refused the job of collecting the rents could very well have been that there were too many powerful men ranged against the Pastons, and it was simply not expedient to align oneself against the powers that be.

The family sought legal advice outside itself to plead their cases in court as well. Although anyone could plead his own case, none of the Paston men at the time had sufficient legal training to plead in the central courts. In 1464 John I was involved in a case at the King's Bench with reference once again to Fastolf's will, and James Gresham wrote to him to inform him of its progress. He added that a large number of important and influential men argued for Paston.²

On several occasions the Pastons were themselves victims of the rampant lawlessness in a less physical sense. On 26 June 1453 there was issued from London a pardon to:

John Paston of Norwich, 'gentilman', of all trespasses, rescues, misprisions, contempts, impeachments and offences before the octave of the Purification last.³

There is no reason given why Paston should need this pardon so it may have been one of the many that were issued regularly to innocent men who feared for their safety because of their sympathy with the 'wrong'

1. See below, p.277.

2. P.L.(G), iv, 555; P.L.(D), ii, 681.

3. C.P.R., 1452-61, 103.

cause. Three years later, in 1456, various people were commissioned to arrest John I and his brother William II who, it was alleged, were wandering through Norfolk 'lying in wait for the king's lieges and beating and maiming some and burning their houses'.¹ The reason for this commission is even more vague than those for Paston's pardon in 1453. We cannot, as usual, cry 'jealousy' and put it down to the Fastolf inheritance for Fastolf had three more years of life. There is no reason to suppose that politics *were* at the roots of the commission. However, if this was the reason, these years ought to have been most fruitful for the Pastons for they had Lancastrian sympathies. There is no evidence that the political manoeuvring of the period was in the least responsible. Therefore, there is no apparent reason for this commission. There is certainly nothing within the letters to indicate that the allegations on this commission were true.

In 1463 Richard Calle wrote to John I informing him of a writ of arrest for his son, John II.² There is no explanation given for this and it seems doubly strange as the writ came to Norwich and we know that in 1463 John II was in London having just been knighted. There is no indication, however, that the 'John P.' referred to is not John III who was at this time nineteen years old:

Plesith your goode maysterchip to witte that there comen doune to the undrescheryff of Norwiche a writte to a-tache Maistre John P. the yongere, wherof I sende you a copy closed herin, but they woll not a-reeste hym within Norwich; but I undrestande ther is comen an other writte to the undrescheryff of Norffolk bothe for hym and me

1. Ibid., 491; see above, p.149.

2. See below, Appendix III.

and for all thoo that ben jndyghted. Wherefore I purpose me to ride to Hoonyng to the scheryff thys day to undrestande how he is disposed and to desire hym to shewe favour to your pore tenants; and as I feele hym disposed I schall sende your maystreschip answer.¹

There is no clue as to why John II should have been arrested in Norfolk. He had been almost continuously in London since 1461 and it seems unlikely that he would have ridden to Norfolk to commit a crime and then return, especially when any crime would probably go longer undetected in London than in the countryside. One must look, therefore, for a reasonable solution. There is a strong possibility that this was another attempt by enemies of the family to deplete their numbers and thus make the seizing of Paston property easier. Although there is no proof of this, one ought to remember that the enemies of John I had had him thrown into the Fleet three times for very flimsy reasons. Thus, we could conjecture that men of power, for example the dukes of Norfolk and Suffolk, would have been able to obtain the necessary writ to imprison a member of the family if they chose. It is, nevertheless, a puzzle.

(iv) Pastons as Witnesses - As a part of their legal duties, the Paston men were frequently witnesses in various transactions, although William I, as a justice, was more often in that position than his sons or grandsons. The appearance of his name as a witness begins long before he became a justice and even before he achieved the degree of serjeant-at-law. In 1404 he witnessed a quitclaim of several manors and various tracts of land in Norfolk.² In 1411 he witnessed the confirmation of one Eleanor Wynter in the estate of 'Tounbernyngham' and

1. P.L.(G), iv, 538; P.L.(D), ii, 678.

2. C.C.R., 1402-5, 383.

several other properties, again in Norfolk.¹ In 1423, shortly after becoming a serjeant-at-law, William I was again involved in a quitclaim of the manor of Lexton, co. Somerset, in two capacities. He was one of the grantors of the manor, and also one of the men who, with others, prepared the memorandum of acknowledgement on 1 February 1424.² This was a fairly common task for a lawyer to perform; William was listed frequently as the man before whom the memorandum of acknowledgement was sworn in a variety of cases. For example, in 1430, he is listed in this capacity when Margery, the widow of Bartholemew, baron of Keteringham, made quitclaim of various rents and services;³ and again the same year when a manor held by a number of men was returned to the original owner, Sir Roger de Swillington.⁴ In 1436, Paston received the memorandum of acknowledgement on two separate occasions for two separate reasons. The first involved a gift after the death of the donor of four marks to one Christine Benege;⁵ the second was a charter of demise of manors.⁶ In 1436, Paston received acknowledgement at Norwich of the quitclaim of the warranty of a manor by Elizabeth Badwell.⁷

Thirty years later, in 1461, William I's son, John I, and his grandson, John II, acted, in their turn, as witnesses in a charter of warranty for a manor in Norfolk. Their position in this transaction was expanded by allowing the two men to enter the manor and give the grantees seisin.⁸

-
1. C.C.R., 1409-13, 229.
 2. C.C.R., 1422-29, 63-64.
 3. C.C.R., 1429-35, 63.
 4. Ibid., 101.
 5. C.C.R., 1435-41, 64.
 6. Ibid., 107.
 7. Ibid., 136.
 8. C.C.R., 1461-64, 207-208.

The same year they found themselves in a similar position in a case involving the same people but dealing with a different manor. Whereas earlier the manor had been Denever in Norfolk, on this occasion it was Frethe, in the same county. The Pastons' legal duties remained the same on this occasion as on the last.¹

Clearly, these examples do not represent every instance in which the Pastons acted in this capacity. Nor are they the only sorts of cases where witnesses were required. As we shall see, John I acted as a witness in the case of Sir John Fastolf's will.² As legal advisers witnessing transactions would have been an inherent part of their duties. One might surmise that it was so common that apart from official records, there was no further need to comment on the instances when it occurred. One factor does stand out however; once again, as with the other many commissions to which the Paston men were appointed, William I's name recurred more frequently as a witness. His grandsons served on far fewer occasions than even their father. So, once again we are reminded that those men with full legal training held a monopoly over the various functions expected of a lawyer.

ii Official Activities

a Assize and Gaol Delivery

Lawyers in the fifteenth century had many more public duties than do their modern counterparts. Both the lawyers and justices in London and those in the counties made up a substantial part of the

1. Ibid., 227-228.

2. See below, pp.271-272.

various commissions which were sent out into the countryside. The Pastons were no exception and seem to have spent a considerable amount of time dealing with a variety of problems all over the country. It is interesting to note that, with one or two exceptions, they seem to have spent most of their time on commissions in a very limited area of England. Their work appears to have been confined to those counties running diagonally from Norfolk to Somerset. This was probably because they held land in those counties and therefore had vested interests in controlling the crime rate.

Membership of some commissions was open to any man with a knowledge of the law, but others were closed to those beneath the higher echelons of the legal profession. Commissions of assize were restricted in this way. The main distinction was that only justices and serjeants were sufficiently trained in the law to sit on them. Thus we find that Justice William was the only member of his family to have served on a commission of assize. Another important difference was that, unlike the other commissions of the fifteenth century, assize justices performed many varied duties instead of dealing with a single type of disturbance, 'Assize justices had a mass of miscellaneous duties to perform. They held assizes and delivered gaols, but were also expected to settle private feuds, report on local conditions, and watch over the interests of the crown'.¹

William Paston served many times as an assize justice although obviously the first occasion was not until after he attained the degree of serjeant-at-law. He was first appointed on 6 November 1422 to a

1. Ives, 'Promotion in the Legal Profession', 358.

commission of assize for the southern counties of Wiltshire, Dorset, Somerset, Devon, Cornwall, and Hampshire.¹ On 1 June 1424 assizes were again to be held by William I and another man, John Juyn. On this occasion the justices were in the counties of Hertfordshire, Essex, Kent, Surrey, Sussex, and Middlesex.² Two years later, in 1426, the same two men returned to these counties to hold assizes. This time they were also instructed:

to make inquisition in the same as to escapes of traitors, and felons from prisons of the king or of other persons in the same, which escapes belong to the king, but have been concealed from him; also as the feoffments and alienations of lands, tenements, rents, and possessions, held immediately of the king, and of entries made into such without his licence, and as to any other concealments.³

On 9 May 1433 William Paston I, Robert Cavendish, William Clopton, and John Harleston were appointed 'to deliver the gaol of Bury St. Edmunds of John Berton of Dounham, co. Suffolk, clerk'.⁴ This is the only mention of a gaol delivery in which a member of the Paston family took part. On 10 June 1440 William I was again travelling as a justice of assize and once again he found himself in the home counties where he had been twice before.⁵

In 1442 William I received an order from London to proceed in his official capacity as justice of assize, 'to have all writs, recorde and processes of assizes, etc. in those counties which are not yet

1. C.P.R., 1422-29, 40.

2. Ibid., 198.

3. Ibid., 361.

4. C.P.R., 1429-36, 278.

5. C.P.R., 1436-41, 418.

determined, and all writings therein pleaded which are in his keeping, before himself and John Fortescue the justices now so appointed, that they may further deal therein according to law and custom of the realm'.¹ This was one of his last actions as a lawyer for he died in 1444 and he had received an exemption in 1437 from serving on commissions outside the counties immediately surrounding Norfolk. This last commission of assize was on 28 January 1442.²

It is interesting to note that throughout his career as an assize justice William Paston never served in Norfolk or Suffolk. 'Justices were forbidden to take assizes in their home county where they might be biased.'³ As the cases with which assize justices were involved had far more scope, it follows that in their home county the risk of judging a relative, friend or acquaintance was much greater than it was in commissions of the peace or oyer and terminer.

b Oyer and Terminer

The fifteenth-century legal system was dependent upon many different commissions in order to run smoothly.⁴ The commission of oyer and terminer, if not the most important, was certainly the most powerful. Justice William Paston played a far larger rôle as a commissioner of oyer and terminer than did any of his descendants. It might be noted, however, that it was not until after he became a serjeant-at-law in 1421 that Paston began to serve on these commissions. Commissions of

1. C.C.R., 1441-47, 16.

2. C.P.R., 1441-46, 38.

3. Ives, 'Reputation of the Common Lawyers', 143.

4. See above, pp.68-70.

oyer and terminer were of two types, those involving particular crimes, and those involving particular areas. There was no difference in jurisdiction between the two types except necessarily as the cases varied.

On 6 May 1423 William I received his first writ naming him to a commission of oyer and terminer:

On complaint by John Prideaux of Adeston, co. Devon, that Walter Carswill of Carswill, in the same county, 'gentilman', William Warwyk of the same, 'yoman', and William Talle of Tone, in the said county, 'taillour', and other malefactors committed an assault and battery upon him at Holbeton, against the peace of the last king.¹

On 5 and 12 July of the same year (1423), William I received three other commissions of oyer and terminer for co. Devon.² He served on a further one in Devon on 10 November 1424³ with the same group of men.

The crimes with which these several commissions dealt were common felonies. One type involved accusations of assault and battery with intent to inflict grievous bodily harm. This charge was very common in most cases brought before commissions of oyer and terminer and frequently it was joined with further accusations of trespass or theft. Very occasionally the victim had died of his wounds. In a letter written by Margaret Paston to her husband John I, this is explained as the cause of the call for an oyer and terminer:

Plesyt yow to wete that I am desyrid be Ser Jon Tatersale to wryte to yow for a comyssion or a neyre in termynner for to be sent down in-to this cuntré to sit upon the parsun of Snoryng and on

-
1. C.P.R., 1422-29, 121.
 2. Ibid., 123 and 137.
 3. Ibid., 229-230.

soche as was cause of Thomas Denyssys dethe and for many and gret horebyl robryys. And as for the costys there-of, the cuntré wele pay therefore for they be sore a-ferd but the seyð dethe be chastysyd, and the seyð robryys, they ar a-ferde that mo folkys xal be servyd in lyke wyse.¹

In the first half of the 1430's William Paston, now a justice of the Common Pleas, served on several commissions of oyer and terminer. One particular request involved not only the threat of physical violence but the theft of property, in the shape of livestock, to the price of £200.²

On 9 May 1431, Paston was named to a commission of oyer and terminer to investigate problems in two counties, Norfolk and Suffolk, as a whole.³ On this occasion he was named to the quorum with John Cottesmore. This was presumably because of his status as a justice. It was allowable for the commissioners to be split up into groups of two or three men if necessary and this proved to be fairly common for it can be observed in several writs of the period. It allowed far more mobility, flexibility, and speed in dealing with the various cases. On 14 February 1437 we find William Paston and other commissioners directed to deal with 'insurrections, rebellions, misprisions, rescues, and offences and for trespass of vert and venison and other trespasses in the counties of Surrey, Sussex, and Berkshire'.⁴ In June 1441 on two separate occasions, Justice William was summoned to deal with exactly similar problems as are cited above.⁵ In 1439 and 1440 Paston was commissioned with others

1. P.L.(G), iii, 472; P.L.(D), i, 162.

2. C.P.R., 1429-36, 129-130.

3. Ibid., 132.

4. C.P.R., 1436-41, 86.

5. Ibid., 572-574.

to proceed with an oyer and terminer for cos. Northampton, Nottingham, and Derby. In the writs pertaining to these commissions no word is mentioned as to the nature of the problem. One can only surmise, therefore, that they are so diverse and scattered that it would be impractical to list them.¹

From 1437 until 1439 William Paston's commissions of oyer and terminer dealt with robbery or burglary rather than assault. There are, in fact, many cases of closes being broken and goods and chattels being stolen. A variation on this occurred in May 1438 when Clays Yandisson, a merchant from Holland, complained that he had been attacked and robbed. The miscreants also sank one of his ships full of merchandise.² It seems unlikely that this was a personal attack; probably Yandisson represented unwelcome foreign interference in English trade and so he became the scapegoat for the perpetrators' anger.

On 17 October 1441 William Paston was again commissioned with many others including many influential noblemen of the period, to hold an oyer and terminer in the home counties and London on all felonies, treasons, insurrections, etc. The mayor of London was also included in this commission.³ Two years later, in 1443, another oyer and terminer was held which included a city in its jurisdiction. The difference between this commission and the preceding one is that the latter dealt exclusively with Norwich for a specific reason whereas the earlier commission included London due to its size and importance. We observed

1. Ibid., 369 and 450.

2. Ibid., 199.

3. C.P.R., 1441-46, 108-109.

earlier that the city of Norwich suffered many disturbances during the 1430's and 1440's.¹ It had become necessary on several occasions to call in outside help in dealing with the uprisings of the commonalty. The commission of oyer and terminer dated 11 February 1443 is clearly one of the reactions to these cries for help:

'Commission of oyer and terminer to ... enquire touching all errors, defects and misprisions in the city of Norwich for lack of good governance of the mayors, sheriffs and aldermen and left by them uncorrected, and to amend the same.'²

This was the last commission of oyer and terminer upon which William I served.

It was not until several years after their father's death that John I or his brother William II were appointed to any commissions. In the case of commissions of oyer and terminer, however, neither of these men was listed as having served. After the commission of 1443 the next mention of a Paston as a commissioner of oyer and terminer was on 18 October 1470. Between these years we have only the evidence of the letter written from Margaret to John I³ to indicate that the family was involved in any way with other commissions of oyer and terminer. The commission of 1470 directed the commissioners to act 'in the county of Norfolk'. The men summoned included some of the top names (although here we see a shift towards a more Lancastrian make-up), and both John II and John III were listed as commissioners. A note which follows the entry reads, 'Vacated by surrender in cera and nothing was done'.⁴

1. See above, pp.153-157.

2. C.P.R., 1441-46, 199.

3. See above, pp.188-189; P.L. (G), iii, 472; P.L. (D), i, 162.

4. C.P.R., 1467-77, 245.

It is possible that before this commission could be carried out, Edward IV returned to England and finally ousted the Lancastrians.

c Commissions of the Peace

One of the most common commissions was of the peace. The Pastons, and in particular William I, were frequently named to them. However, they were rarely of the quorum.

In 1415 William I was named as justice of the peace for the town of Great Yarmouth in Norfolk. This commission was issued on 17 February.¹ On 21 November 1415, William Paston was commissioned, with others, to 'enquire about all treasons, murders, felonies, extortions, oppressions, falsities, deceptions, forestallings, regratings, maintenance, confederacies, misprisions, concealments and trespasses within the county of Norfolk'.² Between the years 1416 and 1422 he was named to an increasing number of commissions primarily concerning Norfolk. These included two in 1417 and three in 1418. On 20 June 1419 William received a commission similar to that of 1415. As well as incidents of law breaking however, he was also required to look into 'wards, marriages, reliefs, escheats, chattels of felons, fugitives and outlaws, deodands, treasure trove and wreck of sea pertaining to the king and concealed from him and any other concealments in the county of Suffolk'.³ On 8 July 1420 he was appointed to three commissions for the East, West, and North Ridings of Yorkshire. It seems, from the evidence, that being named to several commissions at the same time was a common occurrence.

1. C.P.R., 1413-16, 421.

2. Ibid., 410.

3. C.P.R., 1416-22, 269-270.

The two-year gap before William I was again named to a commission of the peace was undoubtedly due to the fact that in 1421 he received the degree of serjeant-at-law. Presumably this year was dedicated to pleading at the Common Pleas. In 1422 he was again named to several commissions at the same time all in East Anglia.¹

The trend we have observed of the increasing commissions to which William Paston I was appointed continued through the remaining years of his life. The area over which he had jurisdiction broadened as well. On 7 July 1423 he was named to commissions for the southern counties of Devon, Dorset, Hampshire, Somerset, and Wiltshire, as well as Norfolk. On 11 November he was appointed to Norfolk on another commission. The following year, 1424, Paston found himself named once more to several different commissions on the same day, 20 July. These were Essex, Hertfordshire, Kent, Middlesex, Norfolk, and Surrey.

William was not named to another commission of the peace until 17 July 1426. On that occasion he would have heard cases concerning the town of Great Yarmouth. The following year, in 1427, he was appointed to serve on four commissions, two on 3 June, one on 10 July and the last on 21 October. These were once again on the southeast coast. In 1428 his name appeared on commissions at the beginning of the year, 12 February, and at the end, 5 December. In 1429 William I was almost continuously named to commissions especially during the first half of the year. It was this year that he was created a justice of the Court of Common Pleas so the increased number of commissions can be attributed

1. Ibid., 450, 456, 460 and 462-463.

to this.¹ From this year the appointments of William Paston I to commissions of the peace increased rapidly reaching their first peak in 1433 and their second in 1437.² In that year he received an:

exemption for life ... for good service to the king ... and for good service to Henry IV and Henry V, and to the king as one of the councillors at law of the Duchy of Lancaster and in consideration of his great age, from assizes, juries, inquisitions, attaints or recognitions ... from being made justice in any other Bench, place or county ... or from being compelled to ride or labour to any parts out of his own country.³

By 1438 we notice that, although Paston's workload had not decreased to any large degree, he was no longer being constantly listed as a commissioner; and although his first commission of the year was 14 February, he was not named again until July. This was primarily due to the fact that Paston was now sixty years old, and seems to have borne very little relevance to his exemption from unnecessary travel. By 1440, however, the decrease in Paston's responsibilities was becoming increasingly apparent. In 1443 the number of commissions to which he was appointed rose suddenly to around the same number as we found in the mid-1430's.⁴

William Paston's importance as a justice of the peace can be illustrated by the fact that his name continued to appear on commissions until only a few months before his death. In 1444 Paston was named to six commissions in the first half of the year, beginning on 3 January.

-
1. C.P.R., 1422-29, 562-564, 566-567 and 569-571.
 2. C.P.R., 1429-36, 616, 618, 620-621 and 625-626.
 3. C.P.R., 1436-41, 59-60.
 4. Ibid., 582-584, 586-587 and 591-592.

The last two commissions of his life were on 18 June and 15 July.¹
He died later that year.

William Paston was succeeded by his eldest son, John I, who was also named to commissions of the peace. However, we find John first named to commissions of the peace in 1447, three years after his father's death. This gap is unexplained, although it could be due to the fact that John I was only twenty-three at the time William I died and felt that he should establish a family before embarking on an official career. In fact, he acted as a justice of the peace very seldom. On the first occasion, as on those which followed, John Paston I, and later his younger brother, William II, sat only for the county of Norfolk; William's name does not appear until 1465. Although he was not a lawyer, we find John I's eldest son, John II, knighted in 1463, also appearing on commissions of the peace, again for Norfolk, with his uncle William II.² On 27 October 1470, John Paston II and his brother, John III, were appointed as commissioners 'to enquire into all felonies, murders, homicides, and other offences, in the county of Norfolk and to arrest and imprison the offenders'.³

By an examination of the names of those men appointed with the Pastons on commissions of the peace we note that very few of them were actually lawyers to the same degree that William I or other associates of the family whom we know were justices or serjeants⁴ were involved in the law. Yet these men clearly were not excluded from commissions of

1. C.P.R., 1441-46, 470-472, 474-475 and 479.

2. C.P.R., 1446-52, 592; 1452-61, 672; 1461-67, 568; 1467-77, 622.

3. C.P.R., 1467-77, 247.

4. See below, pp. 209-215.

the peace. Why was it then that William I served on so many more commissions than his son or grandsons,¹ and over such a wider area of the country?

If we examine the case of Sir William Yelverton, Justice of the King's Bench, in comparison with Sir Miles Stapleton who, like John I and William II, was not a lawyer, we find a similar pattern to the Pastons'. Yelverton served on commissions of the peace from Shropshire around the southern coast of England up to Norfolk, and as far inland as Oxfordshire and Staffordshire; Sir Miles Stapleton served only in Norfolk and Suffolk. Yelverton was also appointed to many more commissions than Stapleton. The ratio was, in fact, 5.8 : 1.06.² It is not the intention here to go into the details of the Yelverton-Stapleton commissions as with those of the Pastons, but the preceding information reinforces the idea that, although legal training was not a prerequisite for serving on a commission of the peace, those who had the knowledge would be appointed more often.

All this would explain why William Paston I was the only member of his family to be named to commissions of the peace outside Norfolk, and why he served more frequently. As we noted earlier³ justices of the peace were usually appointed to those counties where they had landed interests. This 'ensured in the long run that the commissions of the peace would become more an instrument of local politics than an effective grass-roots agency of the common law and royal authority in

1. See below, Appendix V.

2. C.P.R., 1436-77.

3. See above, pp.184-185.

England'.¹ Although this was to a certain degree true, particularly with those commissioners who were not legally trained, it seems likely that justices of the central courts would have been sent to a variety of counties regardless of whether they were land owners there or not. Ideally this would ensure that justice was carried out indiscriminately everywhere. Because of the important rôle played by the commissions of the peace in local government, it was vital that justice be seen to be done at all times and in all places.

d Array and Other Non-Legal Commissions

During the first half of the fifteenth century there was an atmosphere of political unrest both in England and France due to the continued fighting of the Hundred Years' War. As a result commissions of array were far more common than usual. As England's geographical position provided her with natural defences, a standing army was not the same necessity as it was on the Continent. Therefore, whenever men were needed for defence purposes, commissions of array were sent out to pertinent areas of the country to rouse them to action. The first time we encounter an example of this sort of commission in connection with the Paston family is on 28 April 1418 when Henry V was away in France 'for the recovery of the inheritance and rights of the crown'. William Paston I was commissioned with other prominent Norfolk men and the sheriff to array a number of men for the defence of the county.² The reason for this commission was quite apparent; with the king and army away in France, England was left defenceless.

1. Wolfe, Henry VI, 117.

2. C.P.R., 1416-22, 199.

The next commission of array containing a member of the Paston family did not occur until 15 June 1450, shortly before Cade's Rebellion but after the murder of the duke of Suffolk:

Commission to John, earl of Oxford, William Yelverton, Miles Stapylton, knight, John Ferrers, John Berneye, esquire, John Paston, esquire, John Damme and William Liminore, appointing them to array and try all men at arms, hobelers, and archers in Norfolk, and to lead them to the coasts of the sea and other places in the county to expel the king's enemies, and to survey the muster of the same from time to time and cause watches and wards to be kept and 'bekyns' to be set in the usual places and to compel herein such as refuse.¹

Beacons were clearly the easiest way for word of an invasion to spread.

Another commission of array was ordered on 21 December 1459 after the Coventry Parliament. In this, men from the duke of Norfolk to John Paston I, with all social ranks between, were ordered to array men to resist the rebellion of Richard, duke of York and his adherents who had been attainted of high treason at that parliament.² We find the final commission involving a Paston in the month before the second battle of St. Albans on 30 January 1461. It reads like the final appeal of the Lancastrian government for support from Henry VI's loyal subjects:

Commission to John Radclyff of Fitz Watier, John Howard, James Radclyff, Alexander Cressener, John Paston, John Knyvet, Edmund Fitz William, John Waynflete and John Felbregge to arrest and bring before the king and council all persons in Norfolk and Suffolk who impede the king's lieges in coming to defend the king's person pursuant to

1. C.P.R., 1446-52, 389-390.

2. C.P.R., 1452-61, 558.

the king's ordinance of late; and to call together all lieges of the counties able to labour and bring them armed and arrayed to the king's presence.¹

Presumably those who answered this cry fought at St. Albans, although there is no evidence of this.

As lawyers and prominent men in society, the Pastons found themselves frequently serving on commissions of a more general and less legal nature. Examples of this are the commissions de walliis et fossatis (dykes and ditches) which are recorded on occasion, for example:

Commission de walliis et fossatis to Richard Norton, William Ludyngton, John Colvyle, John Wodehouse, William Alyngton, Thomas Derham, William Paston, John Mannyng, William Fulbourne, William Goodrede and Richard Cause between the town of Cambridge and Spaldyng by divers places from Cambridge, St. Ives, Yakesly, Petyrburgh, Thorney, Crouland and Spaldyng to the see in the counties of Cambridge, Huntingdon, Northampton, Lincoln and Norfolk.²

This commission issued on 3 May 1418, delineates a boundary. Similar commissions mentioned follow the same pattern; the names of a number of men, and a series of towns obviously forming the boundaries of some enterprise.³ As all the land mentioned is in the Fens and the commission involves dykes and ditches one might surmise that the men were commissioned to oversee construction of dykes and ditches to aid with the yearly flooding.

1. Ibid., 656.

2. C.P.R., 1416-22, 200.

3. For mentions of other commissions de walliis et fossatis, see C.P.R., 1422-29, 276; 1429-36, 73; 1467-77, 169-170.

From the preceding pages we see that the Paston men, and in particular William I, were involved continually in many different types of commissions. Not all of these dealt strictly with law enforcement although the very concept of commissions was to deal with disorder. It seems for those non-legal commissions, more Pastons were able to serve more regularly. On the whole, however, as a knowledge of the law was necessary for most of them, William I was more involved than his descendants. This reasoning is reinforced by the example of Sir William Yelverton versus Sir Miles Stapleton. Attendance on commissions was an important part of the lives of the landed gentry. It implied acceptance in their social rank as well as recognition of their importance as part of the governing body of the land. One might suggest that this feeling was even stronger among those men who were in no way legally trained. Royal justices served on commissions as part of their job. For the Paston men, especially John I, serving on commissions was all these things but it was also an unavoidable part of their rôles as local gentry.

e Members of Parliament

John I and his son John II were the only men in their family to serve as shire knights. The term 'knight' is used loosely; the comparative scarcity of belted knights in the fifteenth century hindered fulfilment of the stipulation in election writs that they should be returned for the shires. As a result, as with John I, many shire 'knights' were in fact wealthy and eminent esquires or gentlemen.¹

1. A Goodman, A History of England from Edward III to James I (London, 1977), 78.

Mr. Goodman asserts that practising lawyers constituted a substantial part of the house of commons. In the parliament of 1422, for example, they accounted for one-fifth to one-quarter of all the members. Despite the fact that they persistently neglected the commons' public business in favour of their own, they were tolerated because of their technical expertise was essential to the scrutiny, drafting, and amending of bills.¹ We shall see through our examination of the requirements for qualification and of electioneering techniques in the fifteenth century, that when the Paston men achieved the status of M.P. it was not simply because their legal expertise made them the most eligible candidates, but because they had vanquished not merely the other candidates themselves but, in many cases, their noble patrons as well.

Five county elections are mentioned in the Paston Letters. These belong exclusively to the third quarter of the fifteenth century; that is, to the most disturbed years in later medieval times. It is apparent from the discussion of them in the letters that elections were not the straightforward events one would originally suppose them to be from the organized method of calling them. However, it is unreasonable to presume their conduct to be typical of the whole century. Aristocratic influence at that time and in that sphere was enjoying a 'brief, eventful fling'.²

In September 1450 writs were issued for parliament to meet at Westminster on 6 November. Three letters were written to John I on this occasion. The first, dated 6 October, was from a friend in London,

1. Ibid.

2. McFarlane, 'Parliament and "Bastard Feudalism"', 56.

William Wayte, who first commented on York's arrival in London and the panic it had engendered at the court. He urged Paston to seek York's 'good lordship' and added:

Syr, laboure ye to be knyth of the shire, and speke to my Mayster Stapulton also that he be yt. Syr, all Swafham, and they be warned, wyll geve yow here voyces ... Syr, laboure ye to the mayere that John Dam or William Jenney be burgeys for the cetye of Norwych ... Also, syr, thynk on Yernemouth that ye ordeyne that John Jenney or Lumnour or sum good man be burgeys for Yernemouth. Ordeyne ye that Jenneys mown ben in the parlement, for they kun seye well.¹

On 16 October the duke of Norfolk wrote to John I to inform him that he and the duke of York had decided who were to be the knights of the shire, those men 'we thinke convenient and necessarie for the welfare of the said shire'. Therefore, John I was requested, they wished 'that ye make no laboure contrarie tooure desire'.² Two days later, on 18 October, the earl of Oxford wrote to John to inform him of the choice made by Norfolk and York. He had received 'a tokene and a sedell of my lordes entent whom he wold have knyghttes of the shyre' and named Sir William Chamberlain and Henry Grey.³ In fact, only the latter was returned, the other candidate was Sir Miles Stapleton. At the same time one of York's council and a future Mowbray servant was elected in Suffolk, John Damme represented Norwich, and William Jenney was in for the borough of Dunwich.⁴

-
1. P.L. (G), ii, 142; P.L. (D), ii, 460.
 2. P.L. (G), ii, 148; P.L. (D), ii, 464.
 3. P.L. (G), ii, 149; P.L. (D), ii, 465.
 4. McFarlane, 'Parliament and "Bastard Feudalism"', 57-58.

The Mowbray influence was stronger in 1455 after the Yorkist victory at St. Albans. The duchess wrote to John I that it was 'thought right necessarie for divers causes that my lord have at this tyme in the parlement suche persones as longe unto him and be of his menyall servauntz'. She asked him to give his support to 'oure right welbelovyd cosin and servauntz John Howard and Sere Roger Chambirlyayn to be knyghtes of the shire, exorting alle suche othir as be youre wisdom shal now be behovefull to the good exployte and conclusion of same'.¹ The effect on Paston was to cause him to give up all hope of being elected himself. However, he still pressed his claims and for a while it looked as though he might succeed. Two letters for John Jenney, dated 24 and 25 June 1455, gave him hope that he might still be elected:

I tolde my lord of Norffolk atte London that I labored diverse men for Ser Rogere Chamberleyn, and they seid to me they wolde have hym but not Howard, in asmeche as he hadde no lyvelode in the shire, nor coversaunt; and I asked them hom they wolde have, and they seid they wold have you. And thus I tolde hym.²

The following day he expanded on his first report, and his words were more promising than before:

my lord of Norffolk ... seid in asmeche as Howard myght nought be, he wolde write a lettre to the undershreve that the shire shulde have fre eleccion, soo that Ser Thomas Tudenham were nought nor none that was toward the Duc of Suffolk. He seid he knewe ye were never to hym ward. Ye maij sende to the undershreve and see my lord lettre. Howard was as wode as a wilde bullok; God sende hym

1. P.L. (G), iii, 288; P.L. (D), ii, 524.

2. P.L. (G), iii, 294; P.L. (D), ii, 527.

seche wurshipp as he deservith. It is an evill precedent for the shire that a straunge man shulde be chosyn, and no wurshipp to my lord of Yorke nor to my lord of Norffolk to write for hym; for yf the jentilmen of the shire will suffre sech inconvenyens, in good feithe the shire shall nocht be called of seche wurshipp as it hathe be.¹

However, Chamberlain and Howard were both returned.²

John Paston I finally sat for Norfolk in the parliament of 1460 with the good wishes of the common people and the approval of the mayor of Norwich.³ The following year, 1461, he stood against the Mowbray candidates in the elections for the first Yorkist parliament. Sir John Howard was sheriff. Howard returned a report to the king after the shire meeting of 15 June. At that meeting Howard alleged that the deputy had been prevented by threats from John Berney, one of the candidates backed by armed men, from holding the elections. He managed to escape unharmed with the help of three of Norfolk's servants. However, the exaggeration of this story is proved in a letter from the under-sheriff to John I dated 18 June 1461:⁴

ser, as for the eleccion of the knyghtis of the Shire here in Norffolk, in good feyth here hath ben moch to do. Nevir the latyr to lete yow have knowlech of the demenyng, my Master Berney, my Master Grey, and ye had grettyst voyse, and I purpose me, as I woll answere God, to retorne the dieu eleccion, that is aftir the sufficiente, yow and Master Grey. Nevir the latyr I have a master, &c.⁵

-
1. P.L.(G), iii, 295; P.L.(D), ii, 528.
 2. McFarlane, 'Parliament and "Bastard Feudalism"', 58.
 3. P.L.(G), iii, 423; P.L.(D), i, 154.
 4. McFarlane, 'Parliament and "Bastard Feudalism"', 59.
 5. P.L.(G), iii, 291; P.L.(D), ii, 633.

Shortly afterwards Thomas Dennis sent Margaret Paston a letter of advice. He urged her to inform the king of the occurrences in the shire. Therefore he enclosed a testimonial 'which is made by a greet assent of greet multitude of comouns... I pray you for the good spede therof that in all hast possible ye like to send it to my said maister if he be with the Kyng; ellis fynde the meane to send it to the Kyng thogh my maister be thens'. Apparently Berney had promised to send it, 'but for Our Lordes love trust not that, for I se his slouthe and foly labour which is no labour'.¹

To this point John I had no anxiety about his own return to parliament and his optimism remained unshaken, even after 1 August when the postponement of parliament was threatening to occasion a new election. Although Berney's chances were not good, his own seat was assured. So, he wrote to Margaret:

I here sey the peple is disposed to be at the shire at Norwich on Sen Lauerauns Day for th' affermyng of that thei have to do afore, wherof I hold me wele content if thei do it of her owne disposicion; but I woll not be the cause of the labour of hem ner ber no cost of hem at this tyme, for be the lawe I am suer befor, but I am wel a-payd it shall be on han holyday for lettyng of the peples werk.²

He did not retain his aloofness for long. He was arrested on going to London in October and subsequently released. This was followed by rumours in Norfolk that Howard had been imprisoned in his turn.

1. P.L.(G) iii, 463; P.L.(D), ii, 716.

2. P.L.(G), iii, 574; P.L.(D), i, 59.

In his petition to the king Howard alleged that Paston had packed the shire meeting with unqualified men, heavily armed and intent on violence, to prevent the return of the duly elected candidates, Sir William Chamberlain and Henry Grey, and to cause the sheriff to sign an indenture in the names of Paston and Berney. In fact, McFarlane feels, it was more likely that Paston intervened violently in response to a last-minute attempt by the sheriff to set aside the earlier election and substitute candidates of his own. Berney and Paston were returned and no action was taken by the king's court as a result of Howard's information. According to Margaret, they were acclaimed as popular heroes and the following year, 1462, they were peacefully confirmed at the election. John I also sat in the parliament of 1463-4.¹

John II succeeded to his father's ambitions and was elected to the parliament of 1467-8. He wished to be returned for the Readeption parliament of 1470 and decided it was necessary to impress the earl of Oxford with his ability and importance. As he wrote to his brother John III on 15 November 1470, if 'ye all holl os on bodye come to-gedre that my lorde off Oxenfforde maye ondrestande that som strenkthe restyth ther'. He urged him to let the earl know that 'the love of the contré and syté restyth on owre syde, and that other folkys be not belovyd nere nevyre were'.² How the contest went is unknown beyond the fact that the results were satisfactory to both the earl and John II.

In 1472 Mowbray and de la Pole acted in concert and John II failed to secure the nomination. John III wrote, on 12 September:

1. McFarlane, 'Parliament and "Bastard Feudalism"', 60-61.

2. P.L.(G), v, 762; P.L.(D), i, 258.

your desyer as for the knyghtys of the shyer
 was an impossybyl to be browght a-bowght, for
 my lord of Norffolk and my lord of Suffolk wer
 agreid more then a fortnyght go to have Syr
 Robert Wyngfeld and Syr Rychard Harcort; and¹
 that I knew I not tyll it was Fryday last past.

So sure had he been of his brother's nomination that he had sent friends to Norwich 'to serve your entent', and had now to pretend John II had not been in England at the time of the elections. He was too late to procure the nomination for Yarmouth but John III had managed to secure the recommendation of the bailiff of Malden in Essex. The duke's nominee was elected for Norfolk.² On 26 March 1473 John III again wrote to his brother, 'I prey God send yow the Holy Ghost amonge yow in the parlement house, and rather the devyll, we sey, than ye sholde grante eny more taskys'.³

It is McFarlane's contention that the assumption that the great lords controlled the suffrage of the country is indefensible. There was never any guarantee, at this time of civil war and rapidly fluctuating fortunes, that the winning side would be able to return its own men. Those to whom electors gave their voices were not always the men for whom the dukes had spoken; and despite the number of men who were willing to follow the dictates of the magnates, combinations such as the dukes of Norfolk and Suffolk were more indications of weakness than of combined strength. For example, the alliance between the dukes of Norfolk and York in 1450 was only half successful, and in 1461 Mowbray influence overreached itself without Yorkist backing. McFarlane feels

1. P.L. (G), v, 809; P.L. (D), i, 354.

2. McFarlane, 'Parliament and "Bastard Feudalism"', 62.

3. P.L. (G), v, 829; P.L. (D), i, 361.

that the right deduction is that the opinion of gentlemen counted for much.¹

William Paston II served the most number of times in parliament, nine, as compared with John II's three, John I's two, and John III's one. An explanation of this is that he had the support and patronage of Lady Margaret Beaufort and her husband Sir Henry Stafford, first cousins of his wife. As a result of this he was elected first for the borough of Newcastle-under-Lyme in the parliaments of 1470-1 and 1472-5, and then for Bedwin, Wiltshire in 1478, 1483, 1485-6, 1487 (?),² 1489-90, 1491-2, and finally 1495.³ The first of these seats was obtained for him by Lady Margaret, the second through the Stafford-Buckingham connection of her husband.⁴

John II and John III also served for boroughs which, with one exception, were all in Norfolk. Wedgwood writes that in the parliament of 1472-5 John II sat for 'some Cornish boro'.⁵ In the parliament of 1467-8 he sat as a knight of the shire (in this case an appropriate title as John II had been knighted in 1463) for Norfolk, and in 1478 he was elected as burgess for Great Yarmouth.⁶ His younger brother served as a Member of Parliament on only one occasion. In the same year that he was sheriff for Norfolk and Suffolk, 1485-6, he was listed as a

-
1. McFarlane, 'Parliament and "Bastard Feudalism"', 63.
 2. J. C. Wedgwood lists William II as the member for 'some Wilts. boro', (History of Parliament. Register 1439-1509 (London, 1938), 525); it is this author's suggestion that the borough was Bedwin.
 3. Wedgwood, Register, 388, 417, 463, 509, 525, 541, 561 and 581.
 4. Wedgwood, Biographies, 666-667.
 5. Wedgwood, Register, 410.
 6. *Ibid.*, 355 and 439.

burgess in parliament for Norwich.¹

iii Legal and Official Activities of Paston Associates

During this study of the Pastons' legal careers, several names have recurred : Yelverton, Jenney, Stapleton, and others. They and their families were, with the Pastons, landed gentry; the men were often lawyers and always landowners.

The Jenney family were of Knoddishall, Suffolk. The first member of the family who had encounters with the Pastons was John Jenney (1395-1465). He was a lawyer and governor of Lincoln's Inn in the second half of the 1440's. He had two sons, Sir William of whom we shall hear more later, and Sir John, by his first wife, Maud, the daughter and heiress of John Buckley. In October 1450 William Wayte wrote to John Paston I 'that ye ordeyne that John Jenney or Lumnour or sum good man be burgeys for Yernemouth. Ordeyne ye that Jenneys mown ben in the parlement, for they kun seye well'.² However, he became sheriff of Norfolk and Suffolk on 3 December 1450. He was often a justice of the peace, as were the Pastons, sitting for Norwich from 1446 until his death (although he was removed for a time in December 1447), and for Norfolk from July 1454 until his death. In this last position he was of the quorum. He was pardoned with others on 3 November 1455. From the evidence of the commissions of the peace, he died sometime between 1 April 1465 and 20 February 1466.³

1. Ibid., 508.

2. P.L.(G), ii, 142; P.L.(D), ii, 460.

3. Wedgwood, Biographies, 498-499.

It was John Jenney's eldest son, Sir William Jenney, with whom the Paston family had the most difficulties. Born in 1415, J. C. Wedgwood asserts that he was from Theberton, Suffolk rather than Knoddishall. Unlike his father, he achieved a higher rank in the legal profession, attaining the degree of serjeant-at-law in 1463 and justice of the King's Bench in 1481. He entered Lincoln's Inn in 1427 where he rapidly obtained status among his peers. Beginning in 1435 he was to remain at the Inn in the vacations of the next four years. In 1436-7 he audited the accounts of a Pensioner of the Inn. William Jenney (also spelt 'Geney') was permitted to have his servant at the Inn from 1441-2. He became the governor there in 1443-4, 1446-7, 1449-50, 1451-2, 1455-6, and 1460-2.

Unlike John Paston I, he had a very active official career. We have seen that it was in fact William I as a serjeant-at-law and a justice who sat on the most commissions of the peace and of oyer and terminer. William Jenney also held these ranks and so was often named to commissions. From October 1441 to March 1443 he was a justice of the peace for Norwich and for Suffolk; of the quorum from November 1445 to April 1448. He was again justice of the peace for Suffolk from October 1450 to July 1478. Just before he became justice of the peace in 1450 William Wayte wrote to John Paston I that John Dam and William Jenney should be made burgesses for Norwich in the coming election to parliament, but Jenney was returned for Dunwich. From 1452 to 1483 he sat on many Suffolk commissions, including all the Lancastrian ones of 1459-60.

In October 1461 William Jenney and William Yelverton found themselves at odds with John Paston I over the Fastolf inheritance. Richard Calle complained to John II that he was being persecuted for no reason

and that Jenney and Yelverton had certified against him at the King's Bench:

Jenney and Yelverton hathe certified uup in-to the Kynges Benche jnsurrecions [and] congregacions a-yenste me, wherupon they have sente to the scheryff a writte chargyng hym in peyne of c li. to brynge me in-to the Kyngs Benche the morwe aftre Sein Marteyn. And this daye the seide Jenney hathe sent doune to the scheryff an-other writte called an habeas corpus, retournable crastino Annemarum, weche schalbe on Tuesday next comyng, be-cauce they were in dought and in greete feere that I schulde have ben aquytte of the jnditement of felony now at this gayle delyverye.¹

William Jenney's reputation suffered from this opposition to the Pastons over Fastolf's will.² In June 1464 Robert Banyard of Sibton Abbey wrote to Margaret Paston. John III recounted the gist of the letter to his brother. Banyard asserted that 'dyvers men [who] ... love not Jeney' would be suitable as witnesses in the plea of trespass Jenney brought against John I.³

The Jenneys and the Yelvertons were always, it seemed, one step ahead of the Pastons, and William Jenney was made serjeant-at-law in 1463, although it was not until 1471 that he was definitely called king's serjeant-at-law. In 1481 he became one of the justices of the King's Bench. He was re-appointed on 2 April 1483 and again by Richard III on 26 June. He was knighted the day before Richard's coronation, on 5 July 1483, and died in December of that year.⁴

-
1. P.L. (G), iii, 487; P.L. (D), ii, 737.
 2. Richmond, John Hopton, 182.
 3. P.L. (G), iv, 586; P.L. (D), i, 322.
 4. Wedgwood, Biographies, 500-501.

Sir William Yelverton was another man who came in frequent contact with the Pastons. He was born around 1400, the son of John Yelverton of Rackheath, Norfolk. He was educated for the legal profession at Gray's Inn where he was a reader. He was frequently a justice of the peace throughout southern England,¹ and in 1435 and 1436 he was returned to parliament for Great Yarmouth. In Michaelmas 1439, he was made serjeant-at-law and was appointed a justice of the King's Bench in 1443. In spite of his reluctance to recognize the new regime in 1461, he continued to serve in his official capacity under Edward IV. He was knighted in the summer of 1461. At the re-adeption of Henry VI he was transferred to the court of Common Pleas but when Edward IV returned in March 1471, he disappeared from the list of justices.

In 1459 he was appointed, with John Paston, one of Fastolf's executors and thus he became involved in the prolonged dispute over Fastolf's property.² For the most part we find him acting with Fastolf's erstwhile servant, William Worcestre, in opposition to the Pastons. It is ironic that his grandson should have married John I's youngest daughter, Anne.³

The Yelvertons and the Jenneys seem to have had a much stronger influence over the fortunes of the Pastons than any other family in Norfolk, with the exception of Sir John Fastolf, yet there was at least one other man who left his mark on the family. Sir Miles Stapleton proved to be an almost constant thorn in the side of the Pastons throughout the lives of William I and John I. Born in 1407, he was the son and

1. See above, p.196.

2. See below, p.253.

3. D.N.B., s.n. 'Yelverton'.

heir of Sir Brian Stapleton of Ingham, Norfolk. Much of his delight in tormenting the Pastons can be explained by his second marriage, in 1438, to Catherine, the daughter and heiress of Sir Thomas de la Pole of Grafton Regis. He was the younger son of the second earl of Suffolk. Thus we find that it might be seen, in fact, as a sense of family obligation which prompted Stapleton's actions.

Although he was not a lawyer (Wedgwood classifies him as a soldier), he led an active official life; in 1432 and 1433 he was an elector for Norfolk, and in 1435 he served in the same capacity for Suffolk. The years 1437-8 saw him escheator for Norfolk and Suffolk; and in 1439-40 he was sheriff. From October 1438 to August 1442 he was a justice of the peace for Suffolk, and for Norfolk from 1445 until his death.¹ He was frequently on commissions in these two counties from 1440 until October 1461. He was knighted in 1444 or 1445.²

In 1450 William Wayte wrote to John Paston that he should attempt to become a knight of the shire and that he ought to speak to Stapleton to ensure his appointment in that position. However, Stapleton himself was elected.³ In 1452 Paston joined his name with those of Lord Scales, Tuddenham and Heydon as being responsible for great riots and wrongdoings.⁴ In 1458 he was pardoned, though why is unclear, and in 1460 he was appointed to a Lancastrian commission to arrest Warwick's followers. Despite this affiliation with the Lancastrian cause, he soon made his peace with the new regime. In 1461 John Berney named Stapleton as

1. See above, p.196.

2. Wedgwood, Biographies, 804-805.

3. P.L.(G), ii, 142; P.L.(D), ii, 460.

4. See above, pp.144-145.

accusing him of the murder of Thomas Dennis. In 1463 he was pardoned again, and he died 30 December 1466.¹

Although William Worcestre was not a lawyer, he played a very important role in Paston family history. He was the personal secretary to Sir John Fastolf and was a key figure in the legal actions which followed the old knight's death.² He was born in 1415, the son of William Worcestre, a substantial Bristol burgess, and Elizabeth Botoner. He frequently signed himself 'Botoner' and many conjectures have been put forward to explain. In fact, it was probably simply an alternative to 'Worcestre'. In 1431 he went to Oxford and became a scholar at Great Hart Hall, then attached to Balliol College. From 1438 when he attached himself to Fastolf's service until his employer's death in November 1459 he was occupied in much estate business³ and was frequently sent on missions to London and to hold courts at Fastolf's manor of Castlecombe in Wiltshire.⁴ His duties were to act as his master's personal attendant and amanuensis.⁵ He was a man of many talents, pursuing literary and historical work on a fairly large scale. He was also interested in several aspects of science, including astronomy and mathematics.

After the death of Fastolf, Worcestre found himself an executor of the will but with no real power. For many years afterwards he led a harassed life constantly journeying back and forth across England

1. Wedgwood, Biographies, 804-805.

2. See below, pp.264-276.

3. K. B. McFarlane, 'William Worcestre : A Preliminary Survey', Studies Presented to Sir Hilary Jenkinson, ed. J. Conway Davies (London, 1957), 199.

4. D.N.B., s.n. 'Worcestre'.

5. McFarlane, 'William Worcestre', 200.

tracing and listing his late master's property, settling with his creditors, realizing what he was owed, defending his lands against rival claimants, quarrelling and coming to terms with the other executors, lobbying the powerful and risking his own savings in costly litigation.¹ He claimed that Fastolf had orally declared his intention to provide for Worcestre and his family but John Paston I refused to help him. In frustration Worcestre turned to William Yelverton, and together they disputed the will of 3 November 1459, and propounded the validity of the earlier one of 14 June. Eventually he did receive some land and a small cash sum from the bishop of Winchester for turning over certain necessary documents concerning the Fastolf estate.² He died some time between 1480 and 1483.³

iv Conclusion

This section has been devoted to an examination of the legal position of the Paston family in Norfolk in the first three-quarters of the fifteenth century. We have seen that the men, and in particular Justice William I, served on many different commissions legal and non-legal. The Justice and two of his sons also acted fairly regularly as legal advisers in different situations. We have also observed that, although many men attended the Inns of Court to obtain some legal training, very few stayed on the requisite number of years to achieve the degree of serjeant-at-law and its inevitable end in the rank of justice. Despite the fact that most men found these few years in London, or simply at Oxford or Cambridge, ample training for their everyday legal needs, it

1. P.L.(G), iv, 638; P.L.(D), ii, 906; P.L.(G), iv, 672; P.L.(D), ii, 901; McFarlane, 'William Worcestre', 201.

2. See below, pp.293-294.

3. D.N.B., s.n. 'Worcestre'.

must be emphasized that these were by no means sufficient for them to act for others in a legal capacity. William Paston I was a lawyer, neither John I nor William II were. However, it is fairly apparent that John I had spent a good deal more time at the Inner Temple than many men for we have seen how often he was called upon to give legal advice. William II appears, for the most part, to have confined his legal practice to his immediate family. In any case, the main point to note is the difference in the amount of work expected of a man like William I, first as a serjeant-at-law and subsequently as a justice, and that expected of his sons and grandsons with their comparatively meagre legal training.

More important than any of this, however, is the fact that, having now established the Pastons' status legally and socially, we can describe the many and varied tribulations which they had as a result. As we have also identified many of the major characters who allied themselves with and against the Pastons, it will be easier to visualize the ranks drawn up and the shifting position before and after the death of Sir John Fastolf. At any rate we have seen that the Pastons did possess the necessary legal knowledge to deal effectively with their inheritance, and their adversaries for it; what remains is to discover what went wrong and why.

CHAPTER FOURLand Transactions and Problems of the Paston
Family, 1422-14761. The Pastons and their Land, 1422-1459

To the fifteenth-century gentry, possession of land was by far the most valuable financial and status-giving asset. Thus we find the Paston Letters full of transactions involving either the acquisition or defence of tracts of land. The Paston family was in a position unlike any which its peers experienced when, in 1459, John Paston I inherited the Fastolf fortune composed of many manors with their tenements, rents and services. This windfall caused much ill-will among their noble neighbours who felt keenly this affront to their status. As a result, the Letters are also full of accounts of attempts by various people to seize Paston property. It is not the intention of these pages to discuss Fastolf's will and the consequences of it,¹ but to examine the many land negotiations and problems with which the Pastons were faced from 1422 until 1476.

We saw earlier that the Pastons were accused at one point of being descendants of a yeoman. Whether this was actually the case is irrelevant for we know that Clement Paston I owned enough land around the village of Paston for his son William I to have a substantial inheritance in the immediate neighbourhood of Paston. To these William added the manors of Snailwell in Cambridgeshire, Gresham, near Holt, and Oxmead in

1. See below, pp.238-296.

Norfolk.¹ This was a long drawn-out process. Although most of his acquisitions were made after 1420 and his marriage, we do find instances before this when William I was involved in land transactions. In 1416 he acquired the manor of Oxnead, which later became one of the Pastons' favourite homes. In this settlement the manors of Oxnead, Skeyton, Brampton, Burgh, Tutington, Marsham, and Aylesham went to Paston and three other men only after the death of William Clopton. The manors had reverted to Clopton after the death of Frances, his wife and aunt of William Trussel. Upon his death they reverted to his nephew by marriage. It was this latter man who granted the lands, rents, and services to Paston and the others.²

i Transactions concerning land

a Marriage Contracts

In the fifteenth century marriage among the landed gentry and lesser nobility was a serious business. By this time, however, dowries were rarely in the form of land and so marriage to a noble heiress was highly desirable. Not only did more lands enter the family, but glory in the shape of a personalized writ of summons to parliament was an added perquisite. It was still the shortest route to fortunes, but noble heiresses were few and far between.³ The marriages of William I and John I were important to the Pastons because they both married that elusive species, the heiress, and they acquired new lands which would be passed on to their heirs. However, only Justice William's settlement is recorded in the letters.

1. P.L. (D), i, p.xlii.

2. C.C.R., 1413-19, 372-373.

3. McFarlane, Nobility, 276.

In 1420 William married Agnes Berry. The settlement between her father and Paston was a jointure. Each man gave over certain properties to the couple which would be the basis for the establishment of the new generation:

It is agreed ... that the latter [William] shall marry Agnes ... and that his trustees of the manor of Oxnead, Norf., shall demise the same to the said William and Agnes, and the heirs of their bodies, &c. Also Sir Edmund's trustees, either of the manor of Estodenham, co. Norf., or of the manor of Hollewellebury, Herts., at the option of William Paston, shall deliver one or the other manors to the said William and Agnes, and the heirs of their bodies, &c.¹

The actual manors which Agnes brought to the marriage were Marlingford in Norfolk, Stanstead in Suffolk, and Orwellbury in Hertfordshire.² The jointure stipulated that if the couple chose East Tuddenham over Orwellbury, Paston was to make over to Sir Edmund and Alice, for their lives, an estate in either the manors of Marlingford, Norfolk and Stanstead, Suffolk, or in the manors of Edghe and Willingham in Suffolk.³ As Agnes was Sir Edmund's heir, all his land was to go to her at his death in any event. Upon his marriage William settled the manor of Oxnead on Agnes.

The marriage contract was one of the initial moves in an arrangement between families. As many settlements proved unsatisfactory to one side or other, marriages were often arranged which never took place. There is an example in the Paston Letters of this type of contract. It was drawn up in 1454 between William Clopton and Agnes Paston that 'John Clopton ... shall wedde Elizabeth, the daughter of the seid Anneys'. It

1. P.L. (G), ii, 4.

2. P.L. (D), i, p.xliii.

3. P.L. (G), ii, 4.

set out the terms of the marriage for both parties. Agnes was to pay 400 marks and the costs of the wedding; William to make over the most part of his property to John and to the feoffees to uses John specified. Thus established with land and income, John undertook to 'do lawfull estate to be made to the seid Elizabeth of londes, tenementz, rentz, and servisez to the yerly value of xxx li'. He also 'promytteth' to leave 'londes in fee symple or in taill to the yerly value of xl marc' to his male heirs.¹

We have already discussed the love-match between John Paston III and Margery Brewes.² Sir Thomas Brewes appeared to be the only deterrent to their smooth courtship and marriage. Dame Elizabeth Brewes wrote to John III encouragingly in February 1477, 'it is but a sympill oke that [is] cut down at the firste stroke'.³ Despite the desire of both John and Margery to marry, there was the complicated question of the dowry of which to think. Elizabeth Brewes wrote to John saying:

he wold that ye schuld go un-to my maistresse your modur and asaye if ye myght gete the hole xx li. in-to yowr handes, and then he wolde be more gladd to marye wyth yowe and will gyffe yowe an c li. And, cosyn, that day that sche is maryed my fadur will gyff hyr l merk.⁴

She went on to add, however, that despite the meagreness of the dowry, he was getting a far richer treasure 'a wytty gentywoman ... bothe good and vertuos; for if I schuld take money for hyr I wold not gyffe hyr for an m^l li.'

1. P.L. (G), ii, 243; P.L. (D), i, 27.

2. See above, p.127.

3. P.L. (G), v, 896; P.L. (D), ii, 791.

4. P.L. (G), v, 895; P.L. (D), ii, 790.

Apparently this lack of dowry bothered Margery for in a letter addressed to her 'welbeloved Voluntyne', she wrote anxiously:

And my lady my moder hath labored the mater to my ffadur full delygently, but sche can no mor gete then ye knowe of, for the wheche God knowyth I am full sory.¹

She pointed out that she would continue to love him if he 'hade not halfe the lyvelode that ye hafe' so she feels it is only fair that he should be equally generous. Evidently he was, for the couple were married later that same year.

The marriage contract was clearly the place where all contingencies were covered. It was not enough that the couple to be married be provided for, their children must also be thought of. In fact the next generation was the prime concern, hence the importance of the jointure. It ensured that children would be certain of an eventual inheritance. Wardship and other feudal incidents could be avoided, as we have seen,² through the use of enfeoffments to uses.

b Wills

Land, being the asset that it was, was very rarely distributed outside the family. After all, it had been acquired for future generations. The only time land would leave a family was if there were no direct heirs. The will of Sir John Fastolf is the classic example of this. Even so, John I had to pay 4,000 marks before he could take possession.³ Thus, it is clear that the will of Sir John Fastolf was the most important instance of inheritance through a will involving the Paston

1. P.L.(G), v, 897.

2. See above, pp.174-178.

3. See below, p.258.

family. Despite its dominance of family history it was not the first inheritance with which the Pastons concerned themselves.

So far we have discussed some of the land transactions with which William I was involved. Many of these were feoffments to uses and so were of no lasting significance. However, it will become clearer as we continue that by his death in 1444 he had accumulated a fair inheritance for his family. Obtaining possession of it was a no more simple procedure in the middle ages than it is today. Achieving probate on a will was a drawn-out process requiring a writ of diem clausit extremum. This incorporated sworn testimony of legales et probi homines that the dead man had held nulla terras et tenementa ... de domino Rege in capite;¹ it also identified his heir. When William I died this writ was granted late in the year of 1444. A copy is included in a letter from an unknown man writing to John I with instructions for further action.² It refers to the inquisition post mortem in Norfolk:

And for as moche as my Maister Clere wetyth well that the seid verdite touchyng my maister youre fader ... must have other maner of makyng thanne he kan make, he recomaundith hym to my maistres youre moder and yow also, and prey yow that ye will do it make as effectuel and availeabill for the wel of ... youre fader and yow as ye kan, and sele it with youre seall or what seall ellys ye will in his name, and sealle it also with as many of other seales as ther be jerores, and delyvere it to William Bondes, his deputé, to delyvere into the Chauncelré.³

He goes on to remark that there has been no inquisition in Suffolk because Paston had no property there except what he held through his wife. However, if John I wanted an examination made, it could be arranged.

1. P.L.(G), ii, 56; P.L.(D), ii, 441.

2. For an example of this writ, see Appendix VI.

3. P.L.(G), ii, 56; P.L.(D), ii, 441.

There could be many problems concerning the actions of the deceased, perhaps having occurred many years before his death, which had to be settled by the survivors. Shortly after the death of William I, his widow Agnes received a letter from Sir Roger Chamberlain concerning a transaction made between William I and Chamberlain's mother. From the tenor of the letter it seems likely that Agnes had written first inquiring of a manor called Walshams. Chamberlain replied saying Paston had sold it to his mother upon condition that she never sell it except back to his sons John or William. To ensure this the Justice had burdened the property with a huge annuity before Chamberlain's mother had taken possession. Sir Roger closed by writing, 'of the which I suppose ye shall fynde sufficient evydens if ye serge youre evidences therfor'.¹

The Pastons had many problems with wills within their own family. For example, the will of John I was not proved until seven years after his death. In 1466 Margaret wrote to her son John II about his father's will. She told him to tread carefully for it had not been proved yet and he could find himself in a great deal of trouble if he were to assume control too soon, for 'youre unkell Will seyde to you and to me that thay wyll lay the charge upon you and me for moo thyngys, than ys exprest in youre fadere ys wyll'.² In 1470 she wrote again to John II.³ This time she was worried because 'we have thus mynystred the dedes godes wyth-ought licence or auctorité'. She feared, rightly, that it would require many explanations to the authorities:

1. P.L.(G), ii, 64; P.L.(D), ii, 434.

2. P.L.(G), iv, 649; P.L.(D), i, 198.

3. According to Gairdner this letter was written only a few days after the preceding one, but Davis states only that it was before the administration of John I's will had been granted. Although he died in May 1466, the will was not proved until 1473.

At the reverence of God, gete you a licens of my lord of Caunterbery, in dischargyng of my conscyens and yowres, to mynystre a certeyn summe of iij or iiij^c marc., enfourmyng hym how that your lyffelod hath stond this ij yere in such trobill that ye myght right nought have of it, ner yet can take of it wyth-ought ye shuld hurt your tenautes ... And ye have many grete materes on hand and may not have to bere them ought ner to save your ryght, wyth-ought ye myght for a tyme takyn of your faderes godes.¹

In 1479 John II died and, as he was unmarried, his younger brother, John III, was his heir. The latter realized that quick action was necessary and so he wrote to his mother, Margaret:

I prey that my brodyr Edmu[n]d may ryd to Marly[n]gforthe, Oxenhed, Paston, Crowmer, and Caster and in all the maners to entre in my name, and to lete the tenauntys of Oxenhed and Marlyngfor [the] know that I sent no word to hym to take no mony of theym but ther attornement; ... let hym comand theym to pay to no ser-vaunt of myn oncles, nor to hym-sylff nor to non othyr to hys use, in peyne of payment a-yen to me.²

That same year Agnes Paston died. William II claimed the lands which she had brought to the marriage. However, Justice William had entailed them in his will and so first John II and then John III were the rightful heirs. William II was determined however, and a battle ensued. As usual it was the tenants who suffered.³ The vicar of Paston wrote to Margaret that Harry Warnes had told William II that John III had warned the tenants not to pay rents and services to anyone but himself. William in turn also warned them, adding that if they did he would meet them at London 'as the law wolde', or at some market or fair and make them pay arrears to Midsummer.⁴ During this dispute, men were afraid to cultivate

1. P.L. (G), iv, 629; P.L. (D), i, 210.

2. P.L. (G), vi, 962; P.L. (D), i, 383.

3. Bennett, The Pastons, 190.

4. P.L. (G), v, 852; P.L. (D), ii, 783.

their land as they did not know what would happen to their property.¹

It was not until 1484 that an agreement was finally reached between William II and John III.²

c Leases and Other Land Transactions

It should be no surprise that William Paston was the only member of his family to be involved in recorded land transactions pre-1444, for we have already observed that he had by far the most lawsuits and commissions as well. However, we must remember that prior to Fastolf's death, the land which belonged to the Paston family was almost exclusively acquired by William; therefore it was clearly he who would have been mentioned most often. Other members of his family became involved in this sort of business after his death. On 30 October 1446 Agnes Paston granted the lease of the mill in Paston to John Downing and others:

Agnes Paston hath this daye the xxv^{ti} yer of Kyng H. the Sexte letyn to John Downyng, myllere, to Robert Cobbe, and to Robert Emond my mylle ... for the terme of v yere, paying there-fore yerly to the seyde Agnes, to hire heyres or to hire certeyn attorney, x marke at iiij termes in the yere ... Item, the seyde Agnes hath letyn to the seyde John, Robert, and to Robert the clos next the myll, paying to the seyde Agnes yerly duryng the terme a-bove saeyd viijs.³

On 10 November 1446 Agnes again leased a piece of land; this indenture contained a proviso that, should William Palmer fail to fulfil his obligations, Agnes had the right to take back the land:

-
1. P.L. (G), v, 853; P.L. (D), ii, 735.
 2. P.L. (G), vi, 998; P.L. (D), i, 387.
 3. P.L. (G), ii, 67; P.L. (D), i, 15.

This endenture ... be-twen Anneys Paston ... and William Palmer of Trunche ... witnessyth that the seyð Anneys hathe grauntyd and lete to ferme to the seyð William Palmer a pece of londe ... conteynyng be estimacion ix acres in all ... to hym, his heires and hys assyngnes, fro the fest of Allehalwyn nowh last paste on-to the terme of teen yeer than nexte folwyng fully endyd ... And yf the forseyd medwe be not dite in good time ... but appeyred or lost throwh the defaute of the forseyd Palmer ... than it be lawfull to the seyð Anneys ... to distreyne op-on the holl forseyd pece of lond on-till the seyð Anneys be satysfyed of the valew of the heye.¹

One year later, in 1447, Agnes entered into an indenture with William Baxter. It was agreed that the latter should have 'at the wille of the lord of the maner of Knapton' all the lands that belonged to Richard Rede, with the exception of 'a messe conteynyng be estymacion di. acre that was sumtyme Robert at the Medwes, sold to William Boot, and iiij acre j rod sold to John Archall the yongere'.² In November 1446 John I quitclaimed to Thomas Daniel the manors of Wellhall, Grymston, Rydour, and Congham in Norfolk.³

In 1469 John II concluded a deal with Roger Townsend for the sale of all Paston lands in East and West Beckham, and various other manors: Bodham, Sherringham, Beeston near the sea, Runeton, Shipden, Felbridge, Aylmerton, Sustead, and Gresham. John II had 'purchased and hadde of the yifte and feffement of' John Mariot of East Beckham. Roger had already paid £54 of the requisite 100 marks so it was arranged that, by 'the fest of Seint Luke nexte comyng', he should have paid the remaining £12 13s. 4d. This contract also included an option for Paston to repurchase these manors.⁴

1. P.L. (D), i, 16.

2. P.L. (G), ii, 73; P.L. (D), i, 17.

3. C.C.R., 1441-47, 443.

4. P.L. (G), v, 738; P.L. (D), i, 246.

In 1444 John Gyn¹ wrote to William Paston referring to a land transaction. This deal seems to differ in that one derives the distinct impression that the entire procedure was highly irregular, if not completely illegal:

on the Friday next after your departyng fro Paston Thomas Walyssh and William Burgh in his owen persone, and the seid Thomas by William Inges and William Walsyngham his attornés by his lettre under his seal, were at Honyng and delyvred to my Lady Scarlet seson in the seid place and Colbyes and Dounynges in Walsham.²

Why should these men have waited until Paston had left before they approached Lady Scarlet? It is interesting that, 'Thomas Walyssh ... wold not enseale the seid lettre of attorné til the parson of Ingeworth come to hym ther-fore and required hym to don it'. No matter how hard 'Wychyngham in his owen person' tried he could not get any co-operation. Robert Tebald refused to 'enseale acqytaunce' although he was not sure 'whether it were acqytaunce or were not ... for he myght noo sight have ther-of'. Margaret Paston's perturbation at the inability of anyone to decide what should be done, and Gyn's words 'as touchyng the takyng of th'estate to yow and other' seem to indicate that Wichingham might be trying to sell some land which he held by an enfeoffment to uses.

In 1461 Elizabeth Mundford wrote to John Paston I stating that Edmund Rows had claimed the manor of East Lexham which had been exchanged for the manor of Gressenale in the time of her husband's grandfather. 'Ther was made an exchange be the graunsyre of my husbondys Mundeford

-
1. Gairdner writes that this letter is from John Jenney. It is spelt 'Gyney'. There were certainly many variations on the spelling of Jenney's name, but Davis feels that the letter is actually from 'Gyn'.
 2. P.L.(G), ii, 52; P.L.(D), ii, 425.

... with the aunsetrys of Rows.' However, Edmund claimed the manor had been entailed although 'at the tyme of the exchange made the tayles and evydens of bothe for-seyd manerys were delyvered un-to the partyes indeferently, be the avyse of men lernyd'. On the basis of his claim he proceeded to enfeoff three men, including the earl of Warwick, of the property. Two of these men had then entered the manor and claimed it in Warwick's name. Elizabeth asked her nephew 'to take the grete labor upon you to informe my lordys good lordchep of the trowthe ... and that it plese you to undyrstande qwedyr that my lord wyll a-byde be the feffment made to hym or not'. She added that she hoped that as soon as the earl knew the true facts he would not 'supportt the forseyd Rows a-geyne my right'. She closed by writing, 'I would trust to Goddys mersy and to you and other of my good fryndes to have possession a-geyne in right hasty tyme'.¹

ii Disputes over land

One of the main problems with which the Pastons were faced was the number of claimants to their land who had no right to it.² In 1436 William Paston I wrote a letter concerning a man named John Roys who was claiming the manor of Walshams. Apparently he was prepared to prove his right of ownership and claimed accordingly that all the crops and rents of this land were also his. William averred, however, that:

John Roys never hadde non estate in the seid maner but only occupied it by suffraunce of the seid Paston and other feffés in the seid maner, and that by the bargayn

1. P.L. (G), iv, 502; P.L. (D), ii, 657.

2. See below, pp.276-291 for those incidents which followed the death of Sir John Fastolf in 1459.

of the seid maner th'estate that the seid Roys shuld have hadde in the seid maner and in stoor ther-of shul have be condicionel to be voide and nought for defaute of payement.¹

In 1449 Agnes Paston wrote to her son John I, 'as fore the frere, he hath byen at Sent Benettys and at Norwyche, and made grete bowste of the sewte that he hath a-gens me'.² The friar was John Hauteyn who claimed Oxnead manor. Why he did so was not stated but he mounted a formidable campaign to get it. In March of the same year James Gresham wrote to John I that shipmen proposed to put him out of Oxnead 'in a wers wyse thanne ye were put owt at Gresham' in order to 'put in the preest there'. These men were acting on behalf of John Hauteyn.³ Shortly after this Margaret wrote that Hauteyn had been seen in Norwich boasting of his ultimate possession of Oxnead. 'He seyð pleynty in this town that he shall have Oxnede, and that he hath my lord of Suffolkys good lordschip and he wol ben his good lord in that matere. There was a persone warnyð my moder wyth-in this to days that sche shuld ben ware, for thei seyð pleynty sche was lyk to ben servyð as ye were servyð at Gressam wyth-in rytz schort tym'.⁴ Eventually Hauteyn was taken to court; he pleaded benefit of clergy. The case faded out as unobtrusively as it had begun.

The Pastons were not solely troubled by the inability to retain land because it was being snatched. After John I inherited the Pastolf fortune, although the family now had extensive land, they did not have the money for or from its upkeep. Landowners were frequently required to take strong measures to encourage their tenants to pay the required

-
1. P.L. (G), ii, 30; P.L. (D), i, 8.
 2. P.L. (G), ii, 93; P.L. (D), i, 18.
 3. P.L. (G), ii, 74; P.L. (D), ii, 445.
 4. P.L. (G), ii, 89; P.L. (D), i, 133.

rents; the Pastons were no exception. The most common method was to distrain the tenants of their household goods or agricultural implements. Distraining might be viewed as the medieval equivalent of foreclosure. Paston's agents were continuously at work on his various properties distraining for rents.¹ In 1456 John Russe wrote to John I:

as to Skilly, fermour of Cowhaugh, we enteryd there and seyde we wold have payment for the half yeer past and sewyrté for the half yeer comyng, or ellys we wold distreyne and put hym out of pocesseon and put in a newe fermoure.²

In this instance the agents bound the tenant over for a sum of money, payable if the rents were not paid. Skilly was bound over for £18 to be paid by Michaelmas; he was also required to pay 6s. 8d. at the time. It is apparent that the farmer was thoroughly terrified and Russe exacted a promise from him that in fourteen days he would be able to pay the residue from the rents of the past half year. Sometimes, if it was impossible to distrain household goods or implements, the agents had to look for a substitute. What better than the actual crop? John III wrote to his brother, Sir John, in 1472:

I have spok wyth Barker, and he hathe no money nor non can get tyll harvest, when he may dystreyn the cropp up-on the grownd.³

Times were hard indeed.

Several instances when the Pastons were forced to distrain tenants are found within these pages. We have seen how William II threatened

1. Bennett, The Pastons, 252.

2. P.L. (G), iii, 333; P.L. (D), ii, 551.

3. P.L. (G), v, 805; P.L. (D), i, 353.

the tenants of Oxnead when he claimed the manor for his own in 1479.¹ There were several instances before that however. In 1451 James Gloys wrote to John I concerning a tenant named Wharles. This man 'wull not discharge your baly of xxvjs. and viij*d*. which he toke the seid baly enseled in a purs'. Wharles regretted that he had paid up before he had been distrained and refused to pay any more. Gloys added, 'I have be there divers tymes for to distreyn hym, and I cowde never do it but if I wuld a distreyned hym in his moderes hous; and there I durst not for here cursyng'.² Other instances of distraining tenants occurred in the 1460's when the Pastons were fighting their adversaries over Fastolf's will. In the dispute over the manor of Drayton distraining tenants was used by both the Pastons and the duke of Suffolk in order to enforce the validity of their own position.³ It is necessary not to exaggerate these occasional troubles however. Most tenants seemed to have discharged their obligations with no problems.⁴ Distrainment of tenants can be seen as a measure to be used only as a last resort.

During the years 1422 to 1476 the Paston family was involved in three major crises involving land in addition to the many individual cases. Two of these were direct results of the Fastolf inheritance,⁵ but the first occurred many years before Fastolf died. In 1427 William I bought the manor of Gresham and, as it was entailed, it passed to his son and heir John I. In 1448 Lord Moleyns claimed Gresham in right of his wife at the instigation of John Heydon. In the 1420's William, son of

1. See above, p.224.

2. P.L.(G), ii, 178; P.L.(D), ii, 473.

3. See below, pp.282-284 ; P.L.(G), iv, 581; P.L.(D), i, 180.

4. Bennett, The Pastons, 253.

5. See below, pp.282-291.

Robert Moleyns, was given first refusal of the manor after the deaths of the owners, Philip and Elizabeth Vache, but he refused though retained his option. On the death of the said Elizabeth in 1427 he did buy Gresham for 420 marks and held it for two years when he was compelled to give it up as part of the purchase money was unpaid. In order to retain the manor Moleyns accepted surety from Thomas Fawkoner, a London merchant; it was also agreed that Moleyns's son should marry Fawkoner's daughter. The manor was to be given as jointure, but in the meantime Fawkoner and Richard Wyeth were enfeoffed. The marriage never took place so Fawkoner entered the manor. Eventually he sold his right to Wyeth and Thomas Chaucer and released the manor on security. After this Willelmum Paston ... illud emeret si voluerit.¹ By this we can see that to an extent Moleyns could be seen to have had a legitimate claim to Gresham as previous owner. However, as Paston had legally purchased it, it was no longer his property.

Because Moleyns was of a much older family and had far more important connections than a young family like the Pastons (young both in pedigree and in the age of its head, John I, who was 27), they had to be most careful how they approached the problem. After a certain amount of wrangling John was befriended by William Waynflete, bishop of Winchester, who brought pressure to bear on Moleyns for a fair settlement.² The

1. P.L.(G), ii, 16.

2. This was not the only time Waynflete allied himself with the Pastons against those who would dispossess them, Waynflete had risen rapidly up the ecclesiastical ladder of success and had soon become indispensable to Henry VI. On 10 October 1440 he was named a fellow of Eton College and was assigned a paramount place in Henry's will of 1448. He was appointed chancellor in 1456 and played a prominent part in the attainder of the Yorkists in the 1459 Coventry parliament. That same year he was also appointed an executor of Sir John Fastolf's nuncupative will which later allowed him to be readily available and cognizant of the problems when Sir John Paston sought him out for a compromise. As chancellor he left a reputation of upright and prudent administration of justice. (DNB, s.n. 'Waynflete'.) See below, pp.292-296.

latter agreed that the lawyers of the two parties should meet during the summer and discuss the problem. Naive in matters such as this the Pastons agreed but omitted to send servants to guard their property. Seizing the moment 'Moleyns man gaderyth up the rent at Gresham a gret pace'.¹ Paston was advised by Moleyns's lawyers to seek him out and request an interview; the lawyers practically admitted Moleyns had no case. Paston could not find him and, following his wife's advice, he resorted to stronger measures. She urged him to 'gete som crosse bowis and wyndacis to bynd them wyth, and quarell' and then added, 'I sopose ye shuld have seche thyngis of Sere Jon Fastolf if ye wold send to hym. And also I wold ye shuld gete ij or iij schort pelle-axis to kepe wyth doris, and als many jakkys, and ye may'. This action by Paston kept Moleyns's men at Gresham on the alert. Margaret wrote:

Partryche and his felaschep arn sor aferyd that ye wold entern agen up-on hem, and they have made grete ordynaw[n]ce wyth-jinne the hwse ... They have made barris to barre the dorys crosse-weyse, and they han made wyketis on every quarter of the hwse to schete owte atte, bothe wyth bowys and wyth hand gunnys; and tho holys that ben made forre hand gunnyss they ben scarce kne hey fro the plawnohere, and of seche holis ben made fyve. There can non man schete owt at them wyth no hand bowys.²

John Paston I lived in Gresham that winter and the two parties settled down to a stalemate. At least for a time. 'On ... the xxviij day of Januarij' 1449 while John was in London, Moleyns sent in 1,000 men to eject the Pastons. These men, in effect a small army, were fully 'arrayd in maner of werre'. Margaret, who was in residence, was protected only by a small force of men so that Moleyns's contingent found it easy to 'draw down howsis ... myned down the walles ... broke up yates

1. P.L.(G), ii, 77; P.L.(D), i, 129.

2. P.L.(G), ii, 88; P.L.(D), i, 130.

and dores'. When they entered the manor house they found 'the wiff of your seid besechere... and xij persones with here, the which persones thei dreve oute of the seid mansion'. The entire place was sacked and Paston and a few adherents were threatened with death if they were caught. As a result John I petitioned parliament and the lord chancellor, explaining the position. He wrote:

If this gret insurreccyon, ryottis, and wrongis, and dayly continuans ... shuld not be your hye myght be duly punysshid, it shall gefe grett boldnesse to them and alle oder mysdoeres to make congregacyouns and conventicles riottously, on-abilite to be seysed, to the subversyon and finall distruccyon of your liege peple and lawes.¹

He also asked that Moleyns be forced to pay damages and that he and his followers be duly punished. If this was done, not only would the kingdom benefit, but 'he [John] shalle pray to God for yowe'. However, Moleyns, with his better connections, put off any action by the chancellor with his assertions of the validity of his claim.² Paston urged James Gresham to 'laboure forth to have answer of my bille for myn especial assise and the oyer and termynner'. He realized the duke of Norfolk was holding one in Norwich but he feared that if his case was included 'a supersedeas may dassh al, and so shall not in a special'. He was not worried by Moleyns's continued arrogance.³ He also wrote to the chancellor requesting the same thing, though this was a more general appeal. He included John Heydon in the list of wrongdoers and listed those crimes he wished investigated as 'all trespaces, extorcions, riottes forcible entrees, mayntenaunces, champarties, embraceries, offenses, and mesprisions by hem or ony of hem doen'.⁴

1. P.L. (G), ii, 102; P.L. (D), i, 36.

2. P.L. (G), ii, 131; P.L. (D), ii, 455.

3. P.L. (G), ii, 136; P.L. (D), i, 39.

4. P.L. (G), ii, 135; P.L. (D), i, 38.

What happened in the next few months is uncertain but by the spring of 1450 Paston was safely ensconced in Gresham and plotting revenge on Moleyns. He obtained an indictment against him but once again he was outwitted and Moleyns turned the charge around:

The Lord Moleyns men brought ij writtes to the shirrefes deputé of Norffolk, oon a-geynst yow [Paston], myn em [uncle], and James Gloys, quare clausum suum apud Gresham fregerunt, &c., the othir writte a-geynst yow and J. Gloys quare vi et armis in homines et servientes ipsius &c. apud Gresham insultum fecerunt, &c. ... and thanne the seid man desired to have a-geyn the writtes ... And Caly and Yates also have promysed me that ther shall no writte be retourned a-geyn yow but that ye shall have copies ther-of at reasonable tyme to take your avauntage as the law wole, &c., to caste your esson or suyche other, &c.¹

Thus wrote James Gresham. The sheriff of Norfolk told Paston he had an order from the king to impanel a jury to acquit Moleyns. Beaten in this Paston resorted to accepted practice and attempted to bribe the sheriff to favour his interests. John Osbern used a type of blackmail to win him over. 'I remembred hym of hese promyses made before to yow at London when he toke hese oth and charche, and that ye were wyth hym when he toke hese oth and oder dyvers tymes; and fro tho promyses made be hym to yow at that tyme and other tymes ... ye purposed yow ... for to atempte and rere accions that shuld be to the avayle of hym and of hese office.' Moleyns was equally busy threatening the sheriff in association with the duke of Norfolk. The sheriff told Paston his best hope was to get a letter from the king such as Moleyns had had. He 'shuld gete seche on for noble'.² After all this the whole affair seems to have closed amid negotiations between the parties as to what terms Paston would find

1. P.L. (G), ii, 127; P.L. (D), ii, 453.

2. P.L. (G), ii, 193; P.L. (D), ii, 479. A noble was worth 6s. 8d.

satisfactory for recompense.¹

Although their trouble with Moleyns was over the Pastons were faced with further problems with Gresham in 1450. Richard Calle, the Pastons' bailiff, wrote to John I after returning from the manor. He had made some observations and was writing to advise John in his action. First, he urged him to take action against James Gatte 'as you semeth beest, and as hasty processe as may be had a-yenst hym'. Apparently Gatte was working against Calle's efforts to regain Gresham. He then asked Paston to withdraw an action against Robert Coole. Why Paston was prosecuting was not stated but Calle wrote that it would be foolish to continue the suit as Coole is 'the moost able man to take a ferme of lond that I knowe in your lordeschip, and he schal be a gret fermour of youre the next yere'. Calle closes the letter by urging John I to proceed against Robert Wight who has stolen a bullock. He:

come upon your bonde grounde and brak doun the gardeyn dike of the seid Lyghtfotes [a species of cattle] and toke a-wey a bullok of ij yere age and hath caryed it a-wey out of your lordschip; wherfore the tenautes desireth your maitreschip that ye woll take an axion a-yenst hym that he may be punyssched.²

iii Conclusion

Through the preceding pages it will have become clear that the Pastons' main troubles were concerned with land. In common with other fifteenth-century gentry, the main aim of the family was the acquisition of more land. The fact that they had so many problems with their neighbours over land would seem to indicate that their choice of property was

1. Bennett, The Pastons, 5-7.

2. P.L. (G), ii, 152; P.L. (D), ii, 618.

highly desirable from the point of view of income which was clearly the most important factor governing land acquisition in the fifteenth century. This aspect particularly will become even more apparent in the next section.

The fact that most of the Pastons' problems, or at least those with which the Letters deal in any depth, were all land oriented should not seem particularly unusual. As was stated earlier, land was the most valuable financial and status-giving asset in the fifteenth century. Nevertheless, the Paston family can be viewed on a different level than their peers due to their vast inheritance in 1459. As heirs to the huge estate which they added to their already considerable property, they became great landowners, rivalling much of the aristocracy and inadvertently making themselves doubly vulnerable to outside pressures. Their difficulties were exacerbated by their lack of the necessary funds needed to keep up all their property. The reason why the Pastons had so many land disputes was that that was the only asset they possessed which could possibly pose any kind of threat to their neighbours and landed rivals.

2. Sir John Fastolf's Will and its Consequences, 1459-1476

i The Will

When Sir John Fastolf died on 5 November, 1459,¹ John Paston I suddenly found himself, for better and for worse, the beneficiary of a vast estate encompassing thousands of acres of land in five different counties.² Before one can discuss the significance of his will and Paston's inheritance, it is necessary to establish the nature and extent of Fastolf's holdings. This allows a better understanding of John Paston I's position as heir and the motivation of the various men who attempted to, and on certain occasions did, disseise him. Although the narrower purpose of most of the succeeding pages is to attempt to clarify the dispute over Fastolf's nuncupative will of 3 November 1459, it must be emphasized that the argument was not narrow in scope and the repercussions of the will were felt by John I and his family in most of the manors he inherited. In discussing the many problems John I encountered as a result of the November will, it will become increasingly apparent that his guilt or innocence of forgery is a key question. Unfortunately, there is no more evidence today than there was in the fifteenth century to aid a decision one way or the other, so there will be no attempt to pass judgement on Paston.

-
1. There is controversy over the actual date of Fastolf's death. Some historians believe that he died on 6 November; J. Anstis, The Register of the Most Noble Order of the Garter (London, 1724), 140-141; Dictionary of National Biography, s.n. 'Fastolf'. There is also a group who believes he died on 5 November; N. Davis, ed., Paston Letters and Papers of the Fifteenth Century, i (Oxford, 1971), p.xliv. William Worcestre, Fastolf's secretary, in a Latin document dated after the death of John Paston I, wrote, die octava mensis Novembris ... tercio die post obitum Johannis Fastolf, militis: P.L.(G), iv, 638; P.L.(D), ii, 906.
 2. Calendarium Inquisitionum Post Mortem, IV, 26 Hen. VI, 15, and 38-39 Hen. VI, 48.

a Fastolf Family History and Early Land Acquisitions

John Fastolf came from a family of landed gentry in north-east Norfolk.¹ Land played a very important rôle in fifteenth-century society and this is nowhere better illustrated than in the case of John Fastolf: 'Fastolf is a good example of an acquisitive fifteenth-century land-owner';² he was a 'grasping man of business' whose zeal in amassing wealth and increasing his landed property was the chief characteristic of his old age.³ This apparently haphazard search for and purchase of land led him into many difficulties. However, it is easy to understand why land purchase should have held such allure for Fastolf. Although land was easily misappropriated, it tended, in the end, to be a safer proposition than the ownership of extensive moveable chattels, and it always assured the owner of some degree of monetary gain. K. B. McFarlane comments that, in the case of Fastolf, his motivation had less to do with material gain and more with status.⁴

Fastolf actually acquired his land in a variety of ways. During the years 1412 to 1439 he was campaigning in France and so, for the most part, the property he obtained in those years was not in England. We know that his holdings in France were extensive for their annual value at Michaelmas 1445 was given at £401, which comprised just under one-third of his income that year of £1,463.⁵ When he first went to France

-
1. Anstis, The Register of the Garter, 143-144; DNB, s.n. 'Fastolf'; H. D. Barnes and W. D. Simpson, 'The Building Accounts of Caister Castle A.D. 1432-1435', Norfolk Archaeology, 30 (1948-52), 178.
 2. M. E. Hodge, 'Sir John Fastolf. A Biographical Study' (Unpublished M.Litt. dissertation, St. Andrews, 1972), iii.
 3. DNB, s.n. 'Fastolf'.
 4. K. B. McFarlane, 'The Investment of Sir John Fastolf's Profits of War', T.R.H.S., 5th Series, 7 (1957), 114.
 5. Ibid., 105.

in 1412 he was John Fastolf, esquire; it was not until 1416 that he was knighted.¹ In addition, at this time, he was granted the manor of Frilense, near Harfleur, for life as reward for services to the crown.² He continued to play an instrumental role with the English forces in France until he retired in 1439. In 1426 he was created a Knight of the Garter to replace the earl of Westmorland;³ he also held many other important positions in France.⁴

In the years preceding his service in France, Fastolf was in Ireland in the court of Thomas of Lancaster, duke of Clarence.⁵ While he was there, in 1409, he married Milicent Scrope, widow of Sir Stephen Scrope, third son of Lord Scrope, and daughter of Sir Robert Tiptoft.⁶ To her marriage Milicent brought a one-third share of the Tiptoft inheritance, the same lands she had brought to Scrope. These were situated in Yorkshire, Wiltshire, Gloucestershire and Somerset, and were worth respectively £137, £60, £35 and £8 per annum, and they included Castle Combe in Wiltshire.⁷ Fastolf continued to enjoy the profits of his wife's lands up until his own death in 1459 although by so doing he deprived his stepson, Stephen Scrope, of his inheritance. This caused a great deal of animosity; Scrope complained vociferously even though in 1433

-
1. Anstis, The Register of the Garter, 137.
 2. T. Rymer, Foedera, Conventiones, Litterae ..., IX (London, 1709), 329-330; Anstis, The Register of the Garter, 137.
 3. *Ibid.*, 96. The Black Book of the Garter records that he was to replace the duke of Exeter but Anstis corrects this to the earl of Westmorland.
 4. For details see Anstis, The Register of the Garter, 137; Rymer, Foedera, X, 527 and 530-531; and McFarlane, 'Profits of War'.
 5. DNB, s.n. 'Fastolf'.
 6. Anstis, The Register of the Garter, 140.
 7. McFarlane, 'Profits of War', 103.

he and his brother, Robert, granted their inheritance to Fastolf for his life.¹

Sir John Fastolf was a courageous soldier but as a businessman he was frequently short of acumen. Besides his property in France and the lands brought to him in marriage, Fastolf spent £13,855 in purchasing other manors. Their actual value was only £775.² However, he spent these vast sums of money he accumulated in France on building manor houses, and on their contents. He was not solely interested in rural property but built residences in Norwich and Great Yarmouth, and a mansion at Hellesdon. As well as a 'palace', he owned several tenements in Southwark.³ His principal and, one infers, his most lucrative property there was an inn called the Boar's Head. In addition he owned in London houses known as 'the High Bere house', and 'le Harte Horne' alias 'le Bucke Head', two water mills, tenements and gardens called 'Walles' and 'le Dyhouse'.⁴ These properties in London cost him a little more than £1,000.

McFarlane writes that altogether his recorded expenditure on works rather than on estate repairs had reached £9,495 before his death, bringing the total spent on land and works together to £23,350. The money he spent did not include any of the income from his French holdings.⁵ When he died his property included ninety-four manors, four residences,

1. C. C. R., 1429-35, 257.

2. McFarlane, 'Profits of War', 103.

3. Barnes and Simpson, 'Building Accounts', 178-179.

4. Hist. MSS Comm., 4th Report, 464a.

5. McFarlane, 'Profits of War', 105.

£2,643 10s. in money, 3,400 ounces of silver plate and a wardrobe filled with sumptuous apparel.¹

b Caister Castle

Fastolf's major accomplishment, however, was the renovation and reconstruction of the family seat at Caister-near-Yarmouth. This piece of land had come into the possession of the Fastolfs in 1363, and Sir John was born there in 1379.² In 1404 his mother, Lady Mortimer, granted the manor to her son together with the manor of Repps and the advowson of the free chapel of St. John.³ Work was begun on the castle early in 1432 and continued until 1435. For that period receipts amounted to £1,503 14s. 10½d., and the expenditure to £1,480 5s. 9¼d.⁴ William Worcestre wrote eddificacio manerii de Castre velut fortalicium defensionis patrie constabat in triginta annis vj^{ml.} li.,⁵ but this is an exaggeration for there already existed a base upon which Fastolf could build. We know that he was residing permanently at Caister by 1454 and so have assumed that this was the beginning of his residence. However, there is evidence that he lived there before that date for in the inventory of his goods taken after his death there is a room and warda designated as having belonged to Dame Milicent,⁶ and we know that she died in 1446.⁷

-
1. DNB, s.n. 'Fastolf'; Cal. Inq. P.M., IV, 26 Hen. VI, 15, and 38-39 Hen. VI, 48; T. Amyot, ed., 'An Inventory of Effects formerly belonging to Sir John Fastolfe', Archaeologia, 21 (1827), 232-280; P.L.(G), iii, 388 and 389.
 2. H. D. Barnes and W. D. Simpson, 'Caister Castle', The Antiquaries Journal, 32 (1952), 35; P.L.(G), iii, 385.
 3. P.L.(G), i, 6.
 4. Barnes and Simpson, 'Building Accounts', 179.
 5. P.L.(G), iv, 638.
 6. P.L.(G), iii, 389.
 7. P.L.(G), ii, 97.

Caister Castle became the focal point of much hostility after Fastolf's death. Although one can always rely on the excuse that the various assailants of the building were jealous of Paston's new possession, this is only part of the reason. We often forget that the castle was in and of itself a desirable property. It was a unique building in England, being based on the Rhenish Wasserburg of the Lower Rhineland. Fastolf had been ambassador to Basle at one point¹ and would probably have come across these types of German Schloss.²

The actual castle itself was rectangular in plan lying east-west, enclosing a courtyard.³ There were two outworks lying north and south of this central block. Between the north outwork and the inner court there was a crosscut moat which provided extra defence to the main castle.⁴ The entire edifice was surrounded by a larger moat. The main entrance to the castle was over a drawbridge and through a gate in the west wall of the north outwork; from there another drawbridge traversing the crosscut moat, and another gate led into the inner court. There was also a water gate opening on the moat and opposite the barge ditch in the south wall of the main block.⁵

The lay-out of the central block was fairly basic; the castle comprised all the rooms found in an earlier style building. In the eastern wall of the inner court the brickwork appears older. This section

1. Rymer, Foedera, X, 527 and 530-531.

2. Barnes and Simpson, 'Building Accounts', 179.

3. Barnes and Simpson, 'Caister Castle', 38.

4. S. Toy, The Castles of Great Britain (London, 1966), 287; Barnes and Simpson, 'Building Accounts', 180.

5. Toy, Castles, 288.

of the castle had arrow slits whereas the other sections had gunports.¹ This was probably the site of the original manor house and chapel of St. John bequeathed to Fastolf by his mother in 1404.² The 'new work' done by Fastolf, 1432-5, formed the inner court. Here, on the south wall, was the Great Hall; the private and guest chambers on the west; the domestic and service rooms and the stores on the east; and the military quarters adjacent to the gateway on the north.³ In the inventory of Fastolf's goods drawn up in 1459, approximately forty rooms were specified within the castle.⁴

The entire edifice is dominated by a slender, circular tower of over 90 feet in height. Within this tower the five floors of chambers are hexagonal in shape, one chamber on each floor all with a fireplace except for the top floor which may have been Fastolf's muniment room and treasure chamber. A square garderobe projection ascends four floors up the eastern angle with a curtain wall; there is also an octagonal turret with a newel staircase on the south.⁵ Near the bottom of this tower is an oriel window.⁶ There were also round towers on three sides of the inner court, north, east, and south.⁷ The south outwork appears unfinished although it is here that we find the greatest amount of the original castle still standing. Caister Hall, as it is called now, is

-
1. N. Pevsner, Northeast Norfolk and Norwich, Penguin Buildings of England Series (1962), 109.
 2. Barnes and Simpson, 'Building Accounts', 180.
 3. Toy, Castles, 288.
 4. Barnes and Simpson, 'Caister Castle', 43; Amyot, 'Inventory'; P.L. (G), iii, 388 and 389.
 5. M. E. Wood, The English Mediaeval House (London, 1965), 172; Pevsner, Northeast Norfolk, 109.
 6. Ibid.
 7. Barnes and Simpson, 'Caister Castle', 38.

L-shaped and stands in the southern corner of the outwork. It presupposes a corresponding building in the west and also a moat. It has in the angle a round, drum-shaped tower. Underneath the south-west wing ran the original Barge Canal which approached the castle, emptying into the moat.¹ This artificial channel emptied, at the other end, into the River Bure. This gave access by water allowing Fastolf's barge to approach the castle when the Fen roads were impassable by horse.² When Fastolf was granted the right to own ships in 1443, this ditch expedited the transport of 'corn, timber, stones, lead or aught else', for the building and outfitting of Caister.³ The main castle measured approximately 165 feet by 145 feet over walls and excluding the towers. The eastern forecourt had a frontage of 200 feet and a depth of 120 feet. The total acreage was said to be more than six.⁴

It is quite clear from this description, however basic it might be, that Caister Castle was an impressive structure. It was built of bricks made from clay dug out in the neighbourhood which, when baked, turned a yellowy-pinkish colour,⁵ and so it was pleasing to the eye as well as very functional. Because of the barge ditch it increased in value for those who coveted it, and the gunports in the walls allowed for a more modernized defence of it. It is not difficult to understand, therefore, why it was fought over for so long or why Fastolf considered it the jewel of his property and was so specific about its future in his will.⁶

-
1. Pevsner, Northeast Norfolk, 109.
 2. W. D. Simpson, Castles in England and Wales (London, 1969), 137.
 3. C.P.R., 1441-46, 206.
 4. Barnes and Simpson, 'Caister Castle', 39. See Map III.
 5. Toy, Castles, 287; Pevsner, Northeast Norfolk, 109.
 6. See below, pp.253-255.

c Further Land Acquisitions and Resulting Problems

Fastolf's desire for land was the source of much trouble both to himself and eventually to John Paston. However, when one takes into account his neighbours, nobles with large affinities and much power and influence, this should come as no surprise. Fastolf was often less than fastidious in his examination of the titles to land holdings he desired to buy and he frequently found himself in serious trouble; therefore he was compelled by necessity to surround himself with men well versed in the law. But it was not solely the law that was against him, for law, as we have seen and as Sir John would have known well, went as it was favoured, and favour was not easily obtained. It mattered little that his opponents might have weaker titles than his own for they had noble and powerful patronage, and 'Sir John's struggles were apt to be long ones and the results too often disappointing. Without law, without lordship, only luck remained for Sir John Fastolf'.¹

Fastolf's dispute with his stepson, Stephen Scrope, was by no means his only contest involving ownership of property, or even the most serious. He would indeed have been naive to have expected trouble-free possession of desirable property. On some occasions, in fact, disputes were not entirely fictitious but were caused by Fastolf's haphazard examination of the titles of the land he bought.

The greatest problem facing landowners was not ... incompetent officials nor unpaid debts, but the risk of defective and disputed titles, and the expensive litigation, 'labouring' and bribery these might involve.²

1. P. S. Lewis, 'Sir John Fastolf's Lawsuit over Titchwell 1448-55', Historical Journal, 1 (1958), 2.

2. Hodge, 'Sir John Fastolf', 75.

Fastolf was parsimonious and the loss of property rankled with him. However, he was also distressed by loss of revenues from land and had he been in any way liberal in a transaction he painted a picture of himself as long suffering and generous to a fault. In 1457 he wrote to John Paston asking him to receive the rent of one of his tenants who would come to pay Paston. Fastolf's receiver had informed him that this tenant would owe £45 and more by next Michaelmas:

And the ferme is but xx li. yerly, by wheche ye may understande that he hath hadde greet favoure in his paymentes, to his weel and myn greet hurt, as I reporte me to youre greet wysdom. Neverthelesse, sethe hit is so that he hath hadde this advayle upon me I wold seen now that suche dewté as shal ben dewly founde upon hym by accompt to be made at this day, that I may ther-of have payement in hande, as reson wole, or of as moche as the day is ronne of ...¹

In 1455 Fastolf had submitted a petition to the king listing certain grievances. It was primarily directed against the ^{late} duke of Suffolk who seems to have plagued Fastolf as his son later plagued the Pastons 'in grete oppressions, grevous and outrageous amerçiements and manye grete horrible extorcions'. In particular Suffolk appears to have disseised Fastolf of the manor of Dedham which had a yearly rent of 100 marks; and, although he is not directly accused of it, it was also implied that he caused escheators to take over four more Fastolf manors which together also provided him with 100 marks yearly rent. Evidently settling an old score Fastolf also demanded his due as the executor of the duke of Bedford's will, 'for prestes and othir charges for saufgarde and keypyng of certeyn forteresses, castellys, and townes, and for othir costs, prests, and charge by hym born in his service'. He named the precise

1. P.L.(G), iii, 357; P.L.(D), ii, 589.

figure of 4,599 marks, 5s. 6d. In addition to this he added that despite his loyal service to the two preceding kings and to the present one, he had never received 'nowther fee, wagys, reward, ne recompense in this his royaume of England, but hath born it of hys own propre godys, at all tymys to the Kyngs honour and prouffit as to his power'.¹ This latter request, or rather, demand, seen in addition to what we know about his rewards for loyal service in France, can do nothing but paint a very unpleasant picture of Fastolf as an avaricious, grasping old man.

This portrait is embellished when one studies the case of Fastolf's lawsuit over the manor of Titchwell on the north coast of Norfolk.² It was not a very wealthy estate yielding an annual profit of only £20 and yet Sir John bought the property in 1431 for £400, twenty times the annual worth of the land. In his usual careless manner Fastolf believed the land to be safely his, unencumbered by any unknown heirs; however, in 1448 he was proved wrong when an inquisition was held in Norfolk on the status of the previous owner's lands at her death. It was shown that Margery, née Lovel, wife of Sir Edward Hull, and her sister Agnes, wife of Thomas Wake, were the true heirs. Fastolf's title was neatly ignored and Margery entered into Titchwell.³

The case was finally settled in 1453 when Sir Edward Hull was killed with Lord Talbot and his son in the last battle of the Hundred Years War. Fastolf swiftly took advantage and on 14 September he was granted the keeping of Titchwell. By Michaelmas term 1455 the matter was finally settled; Fastolf traversed the whole enquiry and claimed a recovery. A

1. P.L. (G), iii, 309.

2. For a full discussion of the case see Lewis, 'Lawsuit over Titchwell'.

3. Lewis, 'Lawsuit over Titchwell', 2-4.

Norfolk jury found for him on all points.¹

In Fastolf's will of 14 June 1459 there is evidence that his experiences with Titchwell had left their mark. A clause was inserted which reads:

if ony persone make ony compleynt to myn executores that I have purchasyd ony taylid londes ... and that thoo personys ... doo sufficiently and evydently prove ... such londes taylid; thanne I will that the right hyris purchase as be suche taylid londes ... after the avyse and discrecion of the seid John Paston and Thomas Howis ...²

Clearly the humiliation over those early years of the fight for Titchwell had bitten deep, and even in his will he was not prepared to allow his executors to pass over entailed lands to the rightful heirs. The manor of Titchwell cropped up again in 1464, proving itself as much a problem to Paston as it had been to Fastolf. In that year Richard Calle reported difficulties in collecting the rents and farms there for Yelverton and Sir Thomas Howes had instructed the tenants to pay no money to any person other than themselves unless they were prepared to pay twice. Calle tried to distrain the tenants but was informed he could not for he had come before the regular collecting day which was Midsummer.³

In discussing Sir John Fastolf's policy of land acquisitions we have attempted to establish a guide to the size of his estate so that when his will is discussed and the problems which followed it are elucidated, we will have an idea why they should have arisen. It also gives

1. Ibid., 19.

2. P.L.(G), iii, 385.

3. P.L.(G), iv, 568; P.L.(D), ii, 685.

an idea of Paston's change in fortune and status. As was stated earlier, Fastolf died seised of a great deal of property. This was spread through five different counties, though the majority was in Norfolk and Suffolk, and we have noted his substantial holdings in Southwark. In 1443 he obtained the estate of Bentley in Yorkshire, Castle Combe in Wiltshire, and Oxmanton in Gloucestershire from his two Scrope stepsons.¹ And in 1444 John Fastolf of Oulton, esq. (a cousin), released to Sir John all his rights to twelve manors in Norfolk, eight in Suffolk, and one in Essex.² Fastolf's property was fairly concentrated in locality. Upon examination we find that ten out of sixteen of his Suffolk manors were centred around the town of Ipswich,³ and that his few Yorkshire manors were all in the West Riding of the county.⁴ In the inquisition post mortem on Fastolf we find that instead of noting properties as 'manors', on several occasions there are listings of specific extents of land alone, for example: 'Foxhole, 1 messuag' 200 acr' terr' 20 acr' pastur' et 3 acr' prati ibm'.⁵ In 1447 Fastolf made a conveyance of all his manors to the archbishop of York and twenty-one other feoffees to hold 'for the fulfilment of his last will'.⁶

d Involvement with the Pastons

It was around the time of his lawsuit over Titchwell that Fastolf first became involved with the Pastons. He was a cousin of

1. C.C.R., 1429-35, 257.

2. Hist. MSS Comm., 4th Report, 461a.

3. Cal. Inq. P.M., IV, 26 Hen. VI, 15; Bartholemew, Gazetteer.

4. Cal. Inq. P.M., IV, 38-39 Hen. VI, 48; Bartholemew, Gazetteer.

5. Cal. Inq. P.M., IV, 26 Hen. VI, 15.

6. Hist. MSS Comm., 4th Report, 461a.

Margaret Paston through her mother's family, the Berneys of Reedham.¹ In the years preceding 1450, however, John I, as a young unrecognized lawyer, was in no position to provide any services to Sir John. It was not until 1450 that he began to act on business matters with any regularity.

It was not ... primarily because of this relationship that Paston came to play such a large part in Fastolf's life, but, above all, because he was a capable lawyer, equipped with the legal expertise which Fastolf lacked, but which was so necessary to him as a landowner.²

Fastolf had great respect for Paston's business sense, and in 1456 he and his brother, William II, were made feoffees to uses by Fastolf in a second conveyance of his extensive properties in Norfolk and Suffolk.³

On 11 December 1455, Fastolf wrote to John I. In the course of the letter he wrote, 'I was never holde so moche to any kynnesman of myn as I am to yowe, which tendreth so moche my worship and my profyte'.⁴ In addition to these protestations of affection to a business colleague, Fastolf also found Paston a comforting presence as a relative and was eager to strengthen the bonds between the two families. In November 1454 he wrote to John I about the wardship of Thomas Fastolf of Cowhaugh and in the course of the letter he wrote:

y have understand late by certeyn well-willers to you warde... that ... ye desyre an alliaunce shulde take atwyx a daughter of yourys and the seyde waerd, of

-
1. DNE, s.n. 'John Paston'.
 2. Hodge, 'Sir John Fastolf', 178.
 3. P.L. (G), i, 196; P.L. (D), i, pp. liv and lvii.
 4. P.L. (G), iii, 307; P.L. (D), ii, 536.

whych mocion y was ryght glad to hyre off and wylle
be ryght well-wyllyng and helpyng that your blode
and myne myght increse yn alliaunce.¹

Paston in his turn knew that in Sir John Fastolf he had found a man to whom he must cling. Although it might seem excessive to suggest that he made himself indispensable to Fastolf in the distinct and specific hope of material gain, he did manage to do so and it would be naive to protest that he was ignorant of Fastolf's financial worth. Like any person with a rich relative Paston was probably much more pleasant to the cantankerous old man than he might have been had Sir John been less well off. In any case his behaviour paid off; Sir John had a clause inserted into his will which read:

And also the said Sir John said and declared that the said John Paston was the best frende and helper and supporter to the said Sir John, and that was his wille that ... Paston shudde have and enherite the same maners, landes, and tenementes ... there to dwelle and abide ... Also ... Fastolf ... wolde, ordeyned, and declared his wille that ... Paston shulde have alle thynges as ... Sir John had graunted.²

Or so John Paston asserted.

e The Death and Wills of Sir John Fastolf

Sir John Fastolf died on 5 November 1459. 'As sone as ye may goodly comyth to Castre, and Yelverton with yow and ye think it be to don ', wrote Friar Brackley to John I. 'It is hey tyme. He drawyt fast homeward, and is ryte lowe browt and sore weykid and feblyd, &c. ... Every day this v dayes he seyth, "God send me sone my good cosyn Paston,

1. P.L.(G), iii, 266; P.L.(D), ii, 509.

2. P.L.(G), iii, 386; P.L.(D), i, 54.

for I holde hym a feythful man and ever on man". Cui ego, "That is soth", &c. Et ille "Schew me not the mete, schew me the man".¹ It would have been no surprise to his feoffees that most of them were also named as executors. They were Waynflote, bishop of Winchester; John, lord Beauchamp; Nicholas, abbot of Langley; John Stokes, doctor of law; Friar John Brackley, doctor of theology; William Yelverton, a king's justice; John Paston, esq.; Henry Filongly, esq.; Thomas Howes, clerk; and William Worcestre.² It was also discovered that instead of one straightforward will there were two; and although they were fairly simple, they contradicted each other on all but the most elementary points. The first will was dated 14 June 1459 and laid down the tenor of Fastolf's gifts and requests; the second will was dated 3 November 1459 and differed sufficiently from the earlier one to cause more problems than the actual bequests.³

In 1456 Henry Filongly wrote to his uncle, Fastolf, 'as touchinge to your colage that ye wolde have made'. He comments that in order to obtain a license Fastolf will have to pay 500 marks for every 100 marks he ammortises.⁴ As a result Fastolf wrote to Paston to urge 'my lordes of Caunterbury and Wynchestre for the licence to be opteyned'. He felt that due to his long, loyal service to the crown he ought not to be fined. In order to make this concept more palatable to the king he urged John I to inform Henry VI he was to be founder and his soul was ever to be prayed for. In return 'me thinketh I shuld nought be denyed

1. P.L. (G), iii, 383; P.L. (D), ii, 583.

2. P.L. (G), iii, 387.

3. There is in Gairdner (P.L. (G), iii, 387) a third copy of Fastolf's will in Latin. This retains the format of the November document.

4. P.L. (G), iii, 340.

of my desire, but the rather to be remembrid and spedde'.¹ This desire to found a college at Caister was clearly uppermost in Sir John's mind for arrangements concerning the castle appear first in both versions of the will, and the tenor of the bequest does not change. Fastolf wished to 'found and stablishe, withinne the gret mancion ... a collage or a prioury of vij religious personis ... [the clear livelihood of the] lordshepis, maneres, londes, and tenementes, rentes, and servisez, with here appurtenauncez ... and for vij pore men in the seyde collage ... for to preye for my soule and for the soulez of my fadir and my modir'.² The wording here is from the first will but apart from the fact that he specified seven priests in the later will, the idea remained the same. The major difference between the will of 14 June and the nuncupative will of 3 November were the words 'wolde, graunted, and ordeyned that the said John Paston shalle ... founde and stablissh ... a college'³ which appeared in the later version.

Fastolf covered all contingencies in setting down his instructions for the establishment of the college at Caister. His first concern was to ensure that the collegians placed there would be able to support themselves. This he did by granting to them the clear livelihood of all the manors, lands, and tenements attached to Caister. He wished the properties to be amortised and he instructed his feoffees to 'inmortyse and graunte ... to the seyde pryour and religeous ... the forseyd mancion and dwellynge place'. They were also granted 300 marks per annum to aid in costs and repairs. This grant was to be in perpetuity unless the

1. P.L. (G), iii, 351; P.L. (D), ii, 570.

2. P.L. (G), iii, 385.

3. P.L. (G), iii, 386; P.L. (D), i, 54.

monks relinquished responsibility for the seven poor men.¹ In the November will Paston was charged with all the business this establishment would entail. Also, the sum of money to be paid to the members of the college was more specific : the master was to have £10 per annum, each monk or priest 10 marks, and each of the poor folk 40s.²

Should Fastolf's executors (according to the June will) have been unable to establish the college at Caister, the money set aside for that purpose was to go to the Abbey of St. Benet's of Holme where the requisite number of monks and poor men were to be established to pray for his soul and those of his father and mother, his kinsfolk, and Henrys IV and V, the noble dukes, and the present monarch.³ Fastolf again was more specific in the nuncupative will when he specified:

if the said John Paston ... by occasion and unlauffulle trouble in this reame, or by mayntenaunce or myght of lordes, or for defaute of iustice, or by unresonable exaccions axid of hym for the licence of the said fundacion, withoute coveyne or fraude of hym-selve, be lettid or taried of the making or stablessing of the ... said fundacion, that thanne he fynde ... vij prestes to pray for the said soulys in the said mansion, if he can purvey so many, or els for asmany prestes as faile yeve yerely ... by th'avise of his executours, to bedredmen and othir nedy true pepille asmuch money in almose ... as the salary ... of the prestes so faillyng ...⁴

Later he bequeathed to the chapel at Caister for use by the monks, reliquaries, vestments and ornaments. The actual bequest is to St. Mary Ovary at Southwark and the parish churches of his manors but he ordains

1. P.L. (G), iii, 385.

2. P.L. (G), iii, 386; P.L. (D), i, 54.

3. P.L. (G), iii, 385.

4. P.L. (G), iii, 386; P.L. (D), i, 54.

that they may only receive their allocation if there is a 'resonable and a competent part of the seyde reliquis and ornamentes' for the college at Caister.¹ The rest of the will concerns the distribution of his property and will be discussed later. This was the first mention of Paston in Fastolf's wills. In the November version we find his name wherever the words 'my executors' had appeared in the June will. Paston explained this by citing the passage Fastolf had allegedly inserted in the nuncupative will concerning his desire to reward Paston's friendship. Despite this explanation, it is not difficult to understand the suspicions which sprang up in the minds of the eight other executors of the November version, when they read (assuming they did) in the earlier will:

I will and ordeyne and graunt that myn executoris ... and noon othir ... shall have the decleracion and interpretacion of all and senguler articles, chapteris, clausis, whiche and wordes in this my last will ... and that no persone or personys ... have or take any profit or avauntage othyr wise ...²

And yet, according to the will which Paston produced dated two days before Fastolf's death, the only men entitled to exercise any authority in the execution of the will were John Paston and Thomas Howes.

This difficulty was amplified when this difference in wording between the two versions was discovered to affect the clauses dealing with the disposal of Fastolf's property. From the nuncupative will Paston announced that only he and Howes 'and noon othir ... shulde selle alle

1. P.L. (G), iii, 385.

2. Ibid.

maners, landes, and tenementes in whiche any persones were enfeffed ... and the same John Paston and Thomas Howes shalle take and receyve the profites, ysshueys, and emolumentes commyng of the said',¹ and yet the will dated in June spread this task and privilege between the several executors, keeping, as it were, the balance of power stable.² Extra power and status was granted to Paston when Fastolf left him 'alle the maners, landes, and tenementes in North[folk], Southfolk, and Norwich, in which the said John Paston or any other are or were enfeffed',³ in partial payment for Paston's pains over the establishment of Caister as a college. A clause of this nature simply does not exist in the will of 14 June.

In the final clauses of the June will one can see the key changes that Fastolf made concerning the relative rôles of John Paston, Thomas Howes, and the other executors.⁴ For example, Fastolf instructed his executors not to release any debtors from their obligations without the 'knowynge, plessaunce, and assentyng of all myn executorys, or the more part of hem'. These last words were later changed to 'full wyll and assentyng of the seyð John Paston and Thomas Howys, clerk'. The same changes appear in the next clause concerning the alienation of his

-
1. P.L.(G), iii, 386; P.L.(D), i, 54.
 2. P.L.(G), iii, 385. Whether or not the previously mentioned Latin version (P.L.(G), iii, 387) is the same as the November version or an entirely different document, it upholds the wording of the later will on this point: 'Videlicet, quod praedicti Johannes Paston et Thomas Howes solum et ante alios executores praedictos subeant et habeant administrationem ...' (my underlining).
 3. P.L.(G), iii, 386; P.L.(D), i, 54.
 4. Gairdner laid out P.L.(G), iii, 385 in order to better illustrate the changes that were made in the November will. In a lefthand column he placed the text for the will of 14 June; beside it in another column he wrote the changes that were made.

property, when the key words were altered to 'the very will and assent-tyng of the seyð Paston and Howys'.¹ The two are singled out repeatedly throughout the remaining portion of the will either for specific duties or as beneficiaries. For example, Sir John instructed all his feoffees to uses to make a lawful estate in fee simple to whomever his executors released their feoffments. In the later version of the will the words following 'all my feffeez feffyð of trust onto myn use' are changed to 'except before except, be me grauntid to the seyð John Paston or hese assynges'.² But we have already seen that Paston had been granted all the land in Norfolk, Suffolk, and Norwich in payment for his troubles with Caister.

John I was burdened with one other obligation which complicated the issue of the validity of the November will further. He was required to pay to Fastolf's other executors 4,000 marks in 800 mark installments to help pay any of Sir John's remaining debts. He would have been easily in a position to do this after his windfall inheritance. As no man would willingly burden himself with such a debt for no reason, was this proviso a blind to throw the other executors off the scent of a forged will? Fastolf had been too weak to write and sign it himself; presumably he dictated its contents to Paston. Legally upright though John I might have been, would he have sat back and allowed himself to be burdened with a huge debt? If he was so influential with the old knight why did he not persuade Fastolf to change the will? It seems unlikely that they discussed it beforehand, Fastolf explaining his reasoning, although it is not entirely inconceivable as Paston was his main beneficiary. If

1. P.L.(G), iii, 385.

2. Ibid.

the will was genuine, this clause can only be explained by Paston's natural probity. Whatever the truth, Sir John's other executors can be seen to have been fully justified in their disapproval and jealousy when Paston was so pointedly singled out for favour.

The contents of the rest of the will are fairly standard. His first concern after the establishment of the college at Caister was the disposal of his property, and he willed in June that 'all and singuler lordshepis, maneres, londes, and tenementes, [ren]tes, and servisez, with here appurtenauncez' in which anyone was enfeoffed be sold and the money be disposed of as his executors saw fit. In November he also wished to sell his land but he excluded those properties in Norfolk, Suffolk, and Norwich which he had previously granted to Paston. He also wrote that Paston and Howes should be the only executors allowed to sell his lands or enforce any article of his will. The biggest change between the two was that in the nuncupative will Fastolf wished that 'the seid John and Thomas shall have all the profitez and avaylez and emolwements of the seyde maneris ... with all other comoditeez thereof comyng, til be them they be sold'. Whereas in the June will all the executors were to share all the 'issews, avaylez, profitez, and emolwements of all and sengular lordsheppys, manerez, londes and tenementes, rentes, and servisez forseyd'. After sale the money was to be used, in both versions, to speed Fastolf's soul to heaven via alms to the poor and other good works. In the June will, Fastolf added that should a license to endow Caister be unobtainable then those lands, manors, etc. should also be sold and the profits used 'in othyr dedes of mercy, pite, and almesse'. No land was to be alienated without the consent of the other executors (Paston and Howes only in November).

Throughout the will Fastolf appeared obsessed by the idea that perhaps those who owed him money would use the occasion of his death to refuse payment or that others would try and take his property. He attempted to prevent these possibilities by including clauses about them. Concerning the possibility of land snatching he simply ordained that no one should 'take ony maner of avauntage, benefice, or profit' of any lands that 'were myn at ony time' and no doubt he expected that at his word no one would dare to attempt theft. The same attitude can be felt concerning debtors when he wrote to his executors that none of them were to give 'quyetaunce nor rellesse in no wise ... to noon of my detorys'. So as to appear less callous he added that if the executor who wished to release a debt appealed to his colleagues (Paston and Howes in November) it would be all right.

The remaining clauses concerned the type of thing one would find in any will. He set aside a certain unspecified sum of money so masses for the souls of friends and relations might be sung to aid them through purgatory in churches at Great Yarmouth, Langley, St. George's Chapel, Windsor, and Attleborough. He also wished a chantry to be built at St. Olave's Southwark specifically to pray for him. One clause of the will was not surprising considering what we know about Fastolf. He ordained that his servants should continue on in his service for six months after his death to prove their loyalty. Their wages were to be paid during that time but they were also to seek other employment. Any servant who was not well governed was to be removed so as not to corrupt the morals of his fellows.

In closing the document Fastolf wrote that he expected his executors to accept the responsibility placed on them and carry out his wishes to the best of their ability. He was also most anxious that any

and all codicils be carried out. Finally he entreated his executors to deal fairly with his memory and dispose of his property at its full value.¹

f Disputes over the Wills

In itself it was not a difficult will to carry out; Fastolf's absolute trust in Paston caused the difficulties. The other executors felt slighted and ignored and it is not hard to see why when we compare the two documents. As a result of the blatant favouritism in the nuncupative will of 3 November, the other executors were forced into retaliatory action which might easily have been avoided had Fastolf (or Paston) been content with the earlier document.

Their retaliation did not begin immediately after Fastolf's death for there were many legal formalities to deal with before Paston could come into his inheritance, any of which might prevent him from gaining his fortune. Still acting as Fastolf's attorney, John I dispatched his brother, William II, and William Worcestre to London a few days after the old man's death to claim and sequester his property. They were also instructed to approach the lord chancellor to obtain writs of diem clausit extremum for each of the counties in which Fastolf had held property. William II wrote back:

we spak wyth myn lord Chancelere, and I fund hym well dysposyd in all thyng, and ye schall fynd hym ryth profytabyll to yow, &c. ... I purpose to ryde to hym this day fore wrythis of diem clausit extremum ...²

Upon receipt of this writ the escheator of the county would hold an inquiry as to the dead man's lands and his heir.³ After these facts had

1. Ibid.

2. P.L. (G), iii, 391; P.L. (D), i, 86.

3. Cal. Inq. P.M., IV, 38-39 Hen. VI, 48; see above, p.222.

been determined, providing the land was within the archdiocese, the will was sent to Canterbury. Probate would be granted at the discretion of the archbishop. This was no simple procedure for it required that the executors draw up an inventory of the contents of the deceased's property by a certain date specified by the archbishop.¹ Once this was accomplished probate might be granted and the executors were free to execute the terms of the will. In the Fastolf case, however, powerful men were at work to prevent Paston from coming into his inheritance. William II wrote to John I, 'Myn Lord Tresorerere spekyth fayre, but yet many avyse me to put no trost in hym'.² It is interesting to note that one of the more powerful men was not only another of Fastolf's executors but the very man to whom William II went to obtain the necessary writs, William Waynflete, bishop of Winchester and lord chancellor. There is no proof that he had any proprietorial feelings towards the Fastolf estate and he certainly did not persecute the Pastons as did Yelverton, and yet he was conveniently approachable when, ten years later, Sir John Paston was prepared to make a deal over Caister.

The delay caused by waiting for the writs gave several opportunists the chance to win something for themselves. For example, 'My Lord of Exsater cleymyth tytill in myn master plase, with the aportynantys, in Sothewerk'.³ Waynflete advised John I to gather together and 'have all his good owthe of every place of his, his awne place, qwere so ever they were, and ley it secretly were as ye thowth best at yowre assynement, &c.'. ⁴ According to William II, Waynflete assured John I that he 'schuld

1. P.L.(G), iii, 388 and 389.

2. P.L.(G), iii, 391; P.L.(D), i, 86.

3. Ibid.

4. Ibid.

have all lawfull favoure',¹ and eventually he did manage to wear down the opposition and the necessary inquisitions post mortem were held.² It was not until 17 July 1466 that Edward IV finally recognized John Paston II's right to all the lands left by Fastolf to his father:

we ... have comanded that plenar restitution of the mannor of Castor and of all other lands and tenements, with goods and catell, that ... John Paston deceased had of the gift and purchase of Sir John Fastolfe, knight, shall wholly be restored unto our said knight Sir John Paston ...³

Probate was granted on 26 August 1467, eight years after Sir John Fastolf's death.⁴

Before this date, however, Paston had met some very strong opposition, and in fact it was not until 1476 that his son John II was able to assume control over his father's inheritance. Resistance to the will began quite quickly when William Jenney and William Yelverton refused to accept Paston's right to act as sole executor and demonstrated this by seizing some Fastolf manors in Suffolk. John Paston had no recourse then but to petition to the lord chancellor informing him of the situation. In this detailed document he rehearsed the tenor of the will; the bequest concerning Caister and the sum of money he, Paston, was to pay. He wrote simply and eloquently but with no attempt at objectivity. He was not trying to establish the case as it was but simply to present his side. Clearly he was aiming at bringing the case to the Court of Chancery as all other forms of redress had proved useless:

-
1. Ibid.
 2. Cal. Inq. P.M., IV, 38-39 Hen. VI, 48.
 3. P.L. (G), iv, 641; P.L. (D), ii, 896.
 4. Hist. MSS Comm., 4th Report, 459a.

and wher your seid besecher hath don his part acordyng to the seyde will ... William Yelverton, knyght, and William Jenney ... mad a sympill entré in all the seid maners in Suffolk, and chargid the baylifs, fermores and tenautes ... to pay hem the profitez and revenews ... Wherefore please your good and gracious lordship to direct severall writtes of sub pena to the seid William and William, charyng hem ... to appere before your lordship ... to answer to these ¹ premisses and to do as right and consiens requireth.

The action of the other executors gave John Paston endless trouble and litigation till the end of his life. The attack against him developed on two sides; in the archbishop of Canterbury's court of audience where, in 1464, the executors led by Yelverton and Worcestre attempted to overturn the will which gave such complete powers to Paston and Howes,² and in the Fastolf/Paston manors where various men deliberately usurped Paston's authority by holding courts and collecting rents. John Paston I was also thrown into the Fleet prison on several occasions on flimsy charges which suggests that this might have been another arena of operations.

While Paston was attempting to fight the cases in the ecclesiastical and civil courts, his rival executors were seizing other manors. They seemed determined that even at their own loss (though preferably not), Paston would not lay his hands on the property. In 1461, John Smyth wrote to Paston warning him as much, and that the other executors were preparing to sell the land rather than let Paston have it:

... the more part of the feffeyes ... and also thei that pretende to ben executores ... purpose them to sell to my lord of Suffolk, thow he recuvere not be taylor, or to othyr myghty lordys, a gret part of the

1. P.L.(G), iv, 530; P.L.(D), i, 60.

2. P.L.(G), iv, 565.

landys of the seyde Ser John, to the entent that ye schal not have them ... And thow ye recuvere in the lawe ... ye schall recuvere of hard, and but a part, the qwech schuld be dere of the sute.¹

He advised him to obtain the patronage of a powerful noble to aid him in the case. He suggested the earl of Warwick. It was obvious that Paston would have to watch every step, and, in fact, he was thrown into the Fleet prison during some trumped-up proceedings against him because he failed to appear at the county courts.² This action was begun while Paston was following the king to Marlborough to obtain the license to found the college at Caister.³ It was not until fifteen months after John I's death that the litigation in the ecclesiastical courts drew to an end.

The action by the Paston rivals throughout this period was executed almost as though it was thoroughly planned. While the litigation was advancing on two different legal fronts, the duke of Norfolk was preparing his own coup de grace. In 1461 William Lomnor wrote to John I:

Also ye have knowlych how Fastolff [Thomas Fastolf of Cowhaugh, Sir John's nephew and ward] is com yn-to to my lord of Norffolk hous, for ij causez as I understande: on is to enfors my lordes entré yn Castre be his cleym ...⁴

In June 1461 Richard Calle wrote to Paston that Norfolk had seized Caister and established a man named FitzWilliam as keeper. Apparently he ordered a false report be sent to the king stating that two or three

1. P.L.(G), iii, 453; P.L.(D), ii, 627.

2. P.L.(G), iv, 572; P.L.(D), ii, 687.

3. P.L.(G), iv, 569; P.L.(D), i, 70; P.L.(G), iv, 571; P.L.(D), ii, 680.

4. P.L.(G), iii, 465; P.L.(D), ii, 636.

'heirs' to Caister had visited him, Norfolk, with evidences of their right. Norfolk was planning to write again to Edward that 'certeine pointes in your [John I] letteres be untrew and that he schal preve ... he trusteth to God to schewe suche evidence to the Kyng and to the lordes that he schulde have best right and titill therto'.¹ Clearly Norfolk took advantage of the disturbed political situation, and, due to his status among the nobility, redress might have proved difficult. However, Calle advised Paston to 'sele up your evidence and have hem with you to London, to prove his titill noght'.² Norfolk restored the castle because in this instance Paston's case was too watertight and Norfolk was forced to concede. It was not his last attempt to seize Caister.

The investigation of the validity of the 3 November will which began within weeks of Fastolf's death and continued on and off for nearly ten years, involved the appearance of many witnesses for both sides. The depositions were given in various places though they were primarily in Norfolk and London. Although those men produced by Yelverton and Worcestre did not present John Paston in a very becoming light, their statements were not very damning and several were later proved corrupt and unreliable. However, it was not unlikely that Paston and Howes were as guilty as their adversaries in practising bribery, but perhaps their purpose was not to change the tenor of the witnesses' evidence but to induce them to make the long journey to court and possibly face threats and intimidation by the opposition.³

1. P.L.(G), iii, 458; P.L.(D), ii, 632.

2. Ibid.

3. Hodge, 'Sir John Fastolf', 203.

John Paston was not without support in the years of litigation over Fastolf's will. The first evidence of this appears in the Letters within three weeks of Fastolf's death. Robert FitzRalph, a cousin of Fastolf,¹ declared absolutely that he 'hard my seid master' and the seid John Paston appoynte and conclude that ... Paston shulde take upon hym the rwle of my masters howsold and of all his lyflod in Norffolk and Suffolk duryng his lyve'. He also swore that Fastolf and Paston arranged that the latter should found the college at Caister and should have all the 'lyvelode that was my seid masters in Norffolk and Suffolk to hym and to his heyres in fee'. FitzRalph quoted Fastolf as saying, 'Cosyne, I pray you and requere you lete this be sealed in all hast withowte taryng, for this is my very last wille'; and added that the arrangements over the land were not new even at that time.²

On 19 March 1463 Ralph Lampet, a bailiff of Yarmouth, added his voice to FitzRalph's in swearing that Fastolf always intended Paston to control his lands in Norfolk and Suffolk.³ He too stated that Sir John made his intentions clear before witnesses and:

the seid Ser John Fastolff ... declared his will and entent of that feffement and livery of season, mad to the use of the seid Ser John as for duryng his lif only and aftir his decese to the use of the seid John Paston and his heyres.⁴

He echoed the will when he stated that Fastolf called Paston his 'best frend and helper, and supporter'. Lampet provided, as it were, a double

1. P.L.(G), iv, 689; P.L.(D), ii, 901.

2. P.L.(G), iii, 392; P.L.(D), ii, 885.

3. P.L.(G), iii, 386; P.L.(D), i, 54.

4. P.L.(G), iv, 541; P.L.(D), ii, 891.

reason for Fastolf's actions when he stated that the old man 'knew well that the disposicion of the seid Paston was to do good in the contry, and to be non oppressor of the pore pepill'.¹ This last seems to be, on the face of what we know about Fastolf's character, in all probability, an extra embellishment to help the Paston cause. Fastolf, in common with other rich people, cared for the poor mainly in an abstract way. He provided for seven poor men at Caister and ordained the giving of alms but there was a reason. It was, as he himself wrote, 'for the more hasty delyveraunce of my soule from the peynefull flawmes of the fyre of Purgatory'.² Whether Lampet's final addition made the slightest difference to the case is impossible to tell but certainly it could have done no harm.

On 6 April 1463 Sir Roger Chamberlain, a knight of the shire,³ testified before Reginald Tilney, prior of Ixworth, and Sir John Rose, a brother of the house, that he was with the duke of Norfolk 'in the monyeth of Septembre last before the dissesse of the seid Ser John' when he urged Fastolf to sell him Caister or to exchange it for a manor in South Walsham. As Fastolf wished to give the manor to the Abbey of St. Benet's it would be more convenient for all concerned to give them Norfolk's property as it lay closer to the Abbey. Chamberlain stated that Sir John replied to this that 'he had apoynted with his cosyn John Paston [that he] shuld have his seid maner of Caster and all his other livelode in Norffolk and Suffolk, and ... his seid cosyn shuld do make a college of vij prestes and vij poremen at Castre ... from whch

1. Ibid.

2. P.L.(G), iii, 385.

3. P.L.(G), iii, 288; P.L.(D), ii, 524.

apoyntement ... he seid he wold not be remeid'. Norfolk then said that many people believed Fastolf would make Paston his heir, to which the old man replied there was no one living he would rather have in that rôle. He then asked Norfolk to be his good lord 'if it fortunéd to be so; and my lord seid he wold'. Chamberlain added finally, 'also I herd my ... lord sey to me and to divers other divers tymes sethyn that the seid Ser John Fastolff, before the departyng of my ... lord from Caster, told hym pleynly that he wold make the seid Paston his heyre'.¹

Perhaps because this document invokes the name of the duke of Norfolk in a key position, and because of his later rôle in Paston's troubles, it rings more true than the others. Perhaps as this is also the only statement in the inquisitions to go back before Fastolf's death-bed avowal to verify previous statements, it sounds less contrived. The fact that Norfolk was wrong about Fastolf's intentions for Caister and was corrected later in the conversation gives him no excuse for his later actions nor for his attempted seizure of the property a year and a half before Chamberlain's testimony.

In April 1464 Clement Paston II wrote to his brother John that he had been to interview the parson of Blowfeld who, by the tenor of the letter, was proving truculent over his testimony. The letter does not clarify exactly what the parson had said but apparently it was damaging and insulting enough for him to send out a message to say that 'he wasse not wyth-in' to the waiting Clement. He seemed to view the whole episode as mildly amusing for he tells John 'I wrott a letter resytyng how that he wasse sworn yesterday fore to say the trowthe of al maner of materis

1. P.L.(G), iv, 543; P.L.(D), ii, 892; my underlining.

consernyng Sire John Fastolfe, avysed hym to remembere qwat hijs wytnesse hadde sayd for hijs sake and wat schame it xwld be to hym to say the contrary'. He also became slightly menacing when he warned the parson that if he told the contrary John I would soon come over and straighten him out. Finally, appealing to the parson's better nature, he 'badde hym remembere wyth wat maner of men he delt wythe' and he 'rehersyd how untrwly they hadde don'.¹

There is no evidence that this appeal had any effect on the parson either one way or the other. Perhaps if Clement had appealed more to his self-interest than to his doubtful probity he would have had more success. It does show, however, that John I was not having to fight the litigation alone, that he was supported by his family.

Sometime in the same year of 1464 John Russe wrote a memorandum for counsel to a Master Rothwell. The former was in Paston's service in the mid-1450's and was eventually appointed to an official post in the port of Great Yarmouth. By 1463 he was a collector of customs and subsidies.² Russe advised Rothwell that the contents of the nuncupative will were accurate in his knowledge of Fastolf's intentions. Moreover, 'the seyð Testatour hathe at all tymes this xx yeer, in all wyllis that he hathe made, ordeynid that a gret part of hyse seyð londys shuld goo to the fundacion of a collage at Castre of vij monkys or pristys and vij pore folke' and that Paston should have the lands in Norfolk, Suffolk and Norwich, and pay 4,000 marks.³

1. P.L. (G), iv, 564; P.L. (D), i, 119.

2. P.L. (D), ii, 508, headnote.

3. P.L. (G), iv, 570; P.L. (D), ii, 894; my underlining.

Although this document is merely a recital of the contents of the nuncupative will it did serve, coming as it did in the middle years of the inquisitions over the will, to reinforce the position of Paston and Howes. It was not meant to support Worcestre and his associates as is shown in the words 'it shalbe well provyd that the seyde Testatour was dysposyd to have doo more largely to the seyde Paston thanne is conteynid in the seyde wyll if he hadde levyd the tyme to have expressyd and parformyd hise wyll and entent'.¹

In August 1465 John Paston himself was examined in London by a commission appointed by the archbishop of Canerbury concerning the will. He continued to assert the validity of the later document, and to insist that he knew nothing of the contents of the earlier will. Upon reading the transcript it became apparent that what was trying to be established was whether the nuncupative will was in fact written down and sealed before or after Fastolf's death. It is easy to understand the concern over this point. It is very suspect that all of a sudden Paston should have become so vitally important where five months earlier he was of no more significance than any of the other executors. The friendship and trust which existed between Fastolf and Paston was not new in June 1459 and would not have increased significantly between then and November, certainly not enough to warrant the growth in Paston's responsibilities between the two wills. How is it then that Paston suddenly came into his own? The examiners also wished to know the locality of the will, to which John I replied that usually it was at Caister but was at present in the possession of the archbishop. Next they wished to know if Paston and Howes had seen the document immediately after the death of Fastolf

1. Ibid.

and if it had ever been translated into Latin. Paston replied that both he and Howes had seen it as it had been shown to them by William Worcestre; however, as far as he knew, it had never been translated.¹ Later John I admitted that there was a document placed with the June will concerning the disposal of Fastolf's lands in Norfolk and Suffolk if Paston refused his inheritance.

Eventually the examiners asked Paston bluntly if he had forged the will. He denied this stating that he had known for two years before Fastolf's death that he was to inherit the lands, have the administration of the will, and pay 5,000 marks. One month before his death Fastolf remitted 1,000 marks if Paston would carry out the agreements concerning the college. Apparently Fastolf had wanted Walter Shipdam to write the will so when he died Brackley, Paston, and Howes caused him to do so, enclosing the articles concerning the college, lands, administration, and money.²

Whatever the true facts of the case, in July 1466 Edward IV restored to the Pastons 'the manor of Castor and of all other lands and tenements, with goods and cattell, that the said John Paston deceased had of the gift and purchase of Sir John Fastolfe'.³ This would not have surprised Friar John Brackley who, throughout the inquisitions, remained staunch in his support of and belief in the family. On his death bed in 1467 he was questioned as to whether he still felt Paston's claim to be justified, and he replied:

-
1. This would seem to indicate that in fact the Latin version of the will included by Gairdner as P.L.(G), iii, 387 is a copy of a forgery, or perhaps the forgery itself, which would certainly explain why Gairdner felt it was a bad copy.
 2. P.L.(G), iv, 606.
 3. P.L.(G), iv, 641; P.L.(D), ii, 896.

'I am ryght glad that it comyth to yow in mynd for to meve me wyth thys mater in dyschargyng of my consyens ayenst God' seying ferther-mor ... that the wyll that my fadyr [John Paston I] put in-to the coort was as veryly Syr John Fastolfys wyll as it was trew that he shold onys deye.¹

So wrote John Paston III to his brother Sir John. He added that a few days later, just before Brackley died, he reiterated his confidence and belief in Paston's right saying, 'I desyir yow that [ye] wyll report aftyr my dethe that I took it upon my sowle at my dying that that wyll that John Paston put in to be provyd was Syr John Fastolfys wyll'.²

It is this type of unwavering belief in the Paston cause that makes one seriously doubt the validity of their opposition; and yet it existed and was equally adamant that Paston had forged Fastolf's last will in his own favour.

On 31 March 1465 William Worcestre wrote, 'I was the principall doer and cause that both Majster Paston and myne oncle [Howes] came fyrst yn the testament viij yeer goon'. Bitter at being overlooked as an active administrator of the will by Fastolf, he added threateningly, 'yff they wold wyrk ayenst me to minush my powere theyr disposicion wll be construed ferther then they wille it were, and they not so avaylled as they weene yn all thynges'.³ In 1466 Thomas Neve stated that, as he was very friendly with Sir John Fastolf, he was aware of the fact that he had made alterations in his feoffments. This included his desire to establish a college of priests and poor men at Caister. He asserted, however, that:

1. P.L.(G), iv, 666; P.L.(D), i, 327.

2. Ibid.

3. P.L.(G), iv, 577; P.L.(D), ii, 899.

as for ony bargeyn or sell yng or yev yng the maner of Castre or hys londes in Norffolk to John Paston the eldyst, squyer, I herd never the seyde Ser John Fastolf sey yt, nother none othyr man ne none servaunt of hys householde.¹

Presumably the fact that Neve was 'gretely acquentyd and conversaunt wyth Ser John Fastolf' was meant to provide a certain feasibility to his testimony for it did ring somewhat hollow.

It is interesting that the next statement against Paston was made by Robert FitzRalph, the very same man who had defended him so staunchly seven years before. He averred that the day in question, 3 November 1459, he was in constant attendance on Fastolf, 'from vij of the belle ... tyl xj of the belle before mydday, and ... at xij of the belle I ... awayted upon hym tyl ix of the belle in the nyght'. In all that time, he stated, he never heard John Paston mentioned, or any new will either. This he swore 'be this my wrytyng, sealed and signed wyth my owne hand'.² How can one explain FitzRalph's defection? Was his conscience bothering him, had he perjured himself earlier; or had the opposing side merely appealed to his self-interest with money and threats? The same year, 1466, Fastolf's other executors collectively claimed a huge sum of money from Paston's executors. For having sole control of the manors in Norfolk, Suffolk and Norwich they demanded the sum of £1,666 13s. 4d.; and for holding these properties sine racione et scripto antiquo the executors demanded £9,800.³

Thomas Howes made a declaration in 1468 'for the discharge of his conscience'. In it he impugned the authenticity of the nuncupative will.

1. P.L.(D), ii, 895.

2. Ibid.

3. P.L.(G), iv, 638; P.L.(D), ii, 906; my underlining.

He did not deny that he approached Fastolf to allow Paston to found the college he wanted at Caister and pay him 5,000 marks, but 'the said Fastolf wolde yn no wyse assent'. After that, Paston 'labored' Howes to ask Fastolf if he, Paston, might purchase the manors of Hellesdon, Drayton, and Tolthorp, and that he might have a dwelling place for himself, his wife and his servants at Caister. However, according to Howes, Fastolf passionately exclaimed, 'And I knewe that Paston wolde by ony of my londes or my godes he shulde nevyr be my feffé nother myn executour'. Howes does add that Fastolf was willing to allow Paston 'loggyng yn a conveyent place' in Caister 'for terme of hys lyf'.¹

Even were this statement not a repudiation of an earlier stance, it would still lack feasibility. Howes states that Paston planned, long before Fastolf's death, to do him out of property, but this is patently ridiculous. Although he was probably capable of a long-term plan of this nature, John I did not make a habit of it. This will, if it was a forgery, had the quality of spur-of-the-moment act by a lawyer in a position of trust overcome by greed. Howes's deposition was not the only one to make out, at least by inference, that Paston had been plotting for some time prior to Fastolf's death to take advantage of him. The second letter is perhaps more ridiculous than the others for in it Howes conveniently forgets the long-standing relationship between Paston and Fastolf. In addition to this, it attempts to negate any implication of friendship in order to enhance its own validity. In fact, what it succeeds in doing is detracting from it, for the trust between the men was well-known. After considering this statement one is really no further

1. P.L.(G), iv, 689; P.L.(D), ii, 901.

ahead in attempting a judgement of the situation, for, although it may be an entirely accurate account of the sequence of events, it is not presented in such a way as to make it any more believable than the statements in Paston's favour.

There were many other witnesses against the Pastons.¹ In 1467 John III wrote to Sir John, 'thys Saterdag ... William Yelverton hathe ben thys iiij dayis in Yermothe for to get new wytnessys up to London'. He surmised that the reason for this new influx of witnesses was to prove that Fastolf meant John I to amortise 3,000 marks to the college, 'and also that syche astat as my fadyr took her at Caster at Lames next be-for that Syr John F. dyid was delyveryd to my fadyr to the intent for to perfo[r]m the seyde wyll'.² No more was heard of these witnesses. From then on, and even before this date, the battle against Paston moved into a different arena : the actual property itself.

ii The Consequences

The incidents of land snatching with which the Pastons were concerned were, for the most part, a direct result of the Fastolf inheritance. Fastolf had acquired many choice pieces of land, so the jealousy of the co-executors was not entirely unreasonable or surprising, nor were their attempts to relieve the family of its new gains, ill-gotten or otherwise.

a Isolated Cases of Land Snatching

Although there were several long-term incidents of land snatching, involving primarily the dukes of Norfolk and Suffolk, after Paston

1. See, for example, P.L. (G), iv, 639.

2. P.L. (G), iv, 661; P.L. (D), i, 326.

had come into his inheritance, they were by no means the only ones. Isolated cases cropped up periodically throughout the years before 1459¹ and through to 1470. These latter were, again for the most part, episodes when a manorial court had been held to indicate possession by someone other than the owner. In 1462 Richard Calle wrote to John I informing him that he had been to Burnvilles in Nacton² to collect the rents and farms from the tenants. This property had been inherited from Fastolf but Paston ownership had always been disputed by the Jenneys. Calle wrote that while he was there he was told that William Jenney also had been there two or three weeks before (the letter is dated 1 February and Jenney was there 'the Mondaye next aftre Twelthe'), and had held a court. Apparently he had warned the tenants not to pay rent to anyone but himself, 'seying that he whas on of the feffys of the same maner and that he whas feed with Ser John Fastolff, of wheche fee he was be-hynde for ij yere'. Therefore, Calle wrote, he had not been able to collect the rents and farms and the tenants refused to pay until Paston spoke to Jenney. 'I can not see that ye be like to have but litell money there withoute ye wol do distreyne throuout all the lorde-schip.' So Calle specified dates when the tenants should have their money ready to be paid out, for by then they would have an answer. 'Wherfore that it plese your maistreship to remembre to speke to Mastre Jenney.'³

In 1462-3 the manor of Cotton,⁴ another piece of Fastolf property, was threatened by William Jenney, 'the pretense and clayme of the seid

1. See above, pp.228-236.

2. Nacton is a village in Suffolk on the River Orwell. It lies $4\frac{1}{2}$ miles SE of Ipswich; Bartholemew, Gazetteer, s.v. 'Nacton'.

3. P.L. (G), iv, 507; P.L. (D), ii, 661.

4. Cotton is a hamlet in E Suffolk 6 miles NE of Stowmarket; Bartholemew, Gazetteer, s.v. 'Cotton'.

Jenney is that he shuld be infeffed with the seid Paston in the seid maner'. John I wrote to the duke of Norfolk,¹ 'that it please my lordes good grase to be good lord and supporter to Paston in his right and possession of the maner till his right can be lawfully, or by trete, dispreved by his adversaries'. He explained the situation and quoted from Fastolf's will the section pertaining to the inheritance of Caister:

the seid Paston of the seid maners toke estate at Cotton and atornement of the tenauntes viij or ix yere goo ... and continued there in possession aswell in the live of the seid Ser John as sithen, and hath take the profitez ther of sith the discese of the seid Fastolff ... And that also the title of the seid Paston to the seid maner is not all only by the seid feffement, but aswell by a graunt and bargeyn mad a-thwyx the seid Fastolff and the seid Paston ...²

He went on to trace Jenney's history of perfidious land-snatching and general double-dealing. He had, according to Paston, arrested Calle as a thief and when Norfolk had written to him ordering Calle's release 'the seid Jenney ... nouter toke hede ner reputacion'. He asked again for the duke's aid and added at the end, 'like it my lord to remembir that it is not behofefull for any prinse lightly to geve trust or to applye to the desires of any persones that have geve hym cause of mistrust'.³

-
1. Gairdner suggests that it was the duke of Suffolk (P.L.(G), iv, 534, n.1), but at that time he was attacking Hellesdon. In the letter he refers to his son, 'a servaunt of my lorde'; John III was in the service of the duke of Norfolk. Davis lists other indications that the recipient of the letter was in fact Norfolk: P.L.(D), i, 65, headnote.
 2. P.L.(G), iv, 534; P.L.(D), i, 65.
 3. Ibid.

In 1469 the duchess of Suffolk was to appear at Cotton to assert her claim to the manor of Hempnalls¹ by knight's fee. Thus wrote the earl of Oxford to John II. She had with her Sir William Yelverton and Sir Thomas Hoo[Howes?] who were prepared to pay the amercements and to grant seisin to her. Oxford wrote, 'wherfor me thinkith it were welle don ye were at the said court with your councell, and do therin as they wolle advise you'. There is no evidence to show that this actually happened for Oxford stated only that 'the Duchesse of Suffolk wolle hold a court on Monday next comyng' and there is no further mention of the subject.²

Throughout the ten years immediately following Fastolf's death, John Paston I and later his sons, John II and John III, were continually disseised of the inherited lands. Some manors, as we have seen, were seized by the holding of a court, but others changed hands when one or the other party entered the property and collected the rents due. In February 1463 Richard Calle wrote to John I, 'On Tentale hathe entred in-to parte of Felbregge lyvelod, and a.corte holden and the tenauntes returned'.³ Sometimes the would-be owner met resistance from the tenants. However this was fairly rare and was usually overcome by threats and/or bribery. In early 1463 Margaret wrote to her husband that William Jenney and Gilbert Debenham had gone to Caldecote⁴ where they had spoken

-
1. Spelt 'Thempnals' in the letter, Hempnalls is a village in S Norfolk $3\frac{1}{2}$ miles NE of Long Stratton and 9 miles S of Norwich; Bartholemew, Gazetteer, s.v. 'Hempnalls'.
 2. P.L.(G), v, 696; P.L.(D), ii, 754.
 3. P.L.(G), iv, 538; P.L.(D), ii, 678.
 4. Spelt 'Calcote' or 'Calcotys', Caldecote is situated in W Norfolk $6\frac{1}{2}$ miles SW of Swaffham; Bartholemew, Gazetteer, s.v. 'Caldecote'.

with two tenants, Rising and Smythe, and 'haskyd hem rent and ferme'. They were answered that the tenants had already paid Paston and so could not pay them, also, the interlopers were informed, a court had already been held. Jenney replied that because of this 'we mad hym hold corte at London, and so shall we make the to hold a corte at Ipyweche wyth-owt thowe wolt pay us the rent and ferme'. Rising continued adamant in his refusal to pay, 'and so they hathe seled up the berne dorys, and woll dryve a-wey the catell bothe of the fermorys and of the tenauntys'.¹ This action by Jenney and Debenham caused John I to act. He wrote to John Pampyng, an agent of the Pastons, Richard Calle, and John Wykes, another of their employees, instructing them to note every trespass committed at Caldecote. He was determined that Jenney and Debenham should not get away with their outrages, 'I wylle respyte them for this onys al that thei have'.²

In February 1464 Clement II wrote to his brother John that Yelverton had been to see all the tenants at Southwark and ordered them to pay no money 'but to hym'.³ One and a half years later Jenney and Debenham again tried to disseise Paston of land. Margaret wrote, in September 1465, 'on Saterdag last was Jenney ded warne a corte at Calcotte to be holde ther in hys name as on Tusday last was, and Debenham de[d] charge another court.ther the Sunday next after to be holde ther the same Tusday in hys name'. This plan was cleverly thwarted by John II, Daubney, Wykes and Berney who rode to Caldecote the day before the proposed court. When Debenham approached the manor Wykes and Berney

1. P.L. (G), iv, 539; P.L. (D), i, 173.

2. P.L. (G), iv, 540; P.L. (D), i, 66.

3. P.L. (G), iv, 557; P.L. (D), i, 118.

rode out to meet him and he and his 'felechipp' fled. 'And yowr men ... seyde that they knewe noman was possessyd ther-in ner had no ryght ther-in but ye, and so in yowr name and in yowr ryght they seyde they woulde kepyt.'¹ Debenham again tried his luck in October of 1465 when he challenged John III who was gathering rents at Hellesdon. He raised men to attempt to stop Paston but on this occasion was stopped by the duke of Norfolk who 'sent for me and Syr Gylberd Debnam to come to hym to Framlyngham bothe'. Norfolk professed himself shocked that 'tweyn of hys men schold debat so ner hym, contrary to the Kyngys pese', and ordered them to disperse their forces.² Considering the extent to which Norfolk broke the king's peace in the following years, these words can be seen as very self-righteous.

In 1467 William Yelverton again attempted to appropriate Paston property. He 'hathe ben at Gwton,³ and hathe set in a new bayly ther and hathe dystreynyde the tenauntys, and hathe gen hem day tyll Candyllmas to pay syche mony as he axyth of hem'. According to John III he had also been at Saxthorpe⁴ and done the same thing to the tenants there.⁵ In January 1470 John III again wrote to his brother John II about the manor of Saxthorpe. On this occasion William Gurnay had entered the manor to hold a court. 'But er the coort was al doon I cam thedyr, wyth a man wyth me and no more, and ther be-for hym and all hys felawchep ... I chargyd the tenauntys that they shold proced no ferther in ther coort

1. P.L.(G), iv, 610; P.L.(D), i, 192.

2. P.L.(G), iv, 613; P.L.(D), i, 324.

3. Guton, a hamlet in S Norfolk, is 3 miles SE of Reepham; Bartholemew, Gazetteer, s.v. 'Guton'.

4. Saxthorpe is a village in Norfolk on the River Bure 5 miles NW of Aylesham; Bartholemew, Gazetteer, s.v. 'Saxthorpe'.

5. P.L.(G), iv, 659; P.L.(D), i, 325.

up-on peyn that myght falle of it.'¹ After 1470 the Fastolf inheritance was divided between John Paston II and William Waynflete, bishop of Winchester² and so the number of disturbances diminished.

b Hellesdon and Drayton

In 1465 the duke of Suffolk claimed the Paston manor of Drayton³ which had been inherited from Fastolf. It seems fairly clear that he had no legal right to it and simply wanted it because it lay across the river from his mansion of Costessey. It is also quite likely that he bought the rights to Hellesdon⁴ from another man who claimed it. This manor lay very close to Drayton. In any event, Margaret Paston immediately went to Drayton 'to gedere money', and had no trouble in collecting the rents from the tenants, which seems to indicate that the duke had been somewhat remiss in asserting his claim. Certainly he had sent an agent, 'Maister Phyllyp [Lipgate]', but this man had simply confiscated a horse from one of the tenants, a man named Dorlet, as he was going to plough.⁵ Partially in retaliation and partially to assert her rôle as rightful owner, Margaret took two horses from a man named Piers Warin 'otherwyse called Pyrs at Sloth, whych ys a flykeryng felowe and a besy wyth Maister Phyllyp and the bayly of Cosshay'. The result of this was that Warin sent to Suffolk's bailiff who appeared with 160 fully armed men and took 'from the parsouns plowe ij hors, prise iiiij marc, and ij hors of Thomas Stermyns plowes prise xls'. They were informed that they could have their animals back as soon as Piers recovered his.

1. P.L.(G), v, 796; P.L.(D), i, 338.

2. See below, pp.292-296.

3. A village in Norfolk 4½ miles NW of Norwich; Bartholemew, Gazetteer, s.v. 'Drayton'.

4. A village in S Norfolk on the River Wensum 2½ miles NW of Norwich; Bartholemew, Gazetteer, s.v. 'Hellesdon'.

5. P.L.(G), iv, 579; P.L.(D), i, 179.

Richard Calle tried to persuade the two men to prosecute but they refused. Margaret took it upon herself to cajole Stermyn to take action and so he did.¹ A state of armed readiness now pervaded both sides of the river. In May 1465 Margaret sent 'youre servauntys Naunton, Wykys, and othere' to Drayton to drive back seventy-seven head of cattle. The tenants were informed that 'yf they wold do pay such dewtys as they oght for to pay to you' the cattle would be returned. Suffolk's officer, Harleston, warned the tenants that if they did pay up he would 'put hem oute of such londys as they huld bondly of the lordshyp'; then he served Margaret with a writ of replevin (or restitution) on the grounds that the stolen cattle had come from Suffolk's fee not Paston property, Margaret refused to surrender. Finally Harleston got a writ from the sheriff of Norfolk which Margaret dared not ignore; the cattle were returned.²

During the weeks of summer 1465 the duel went on. John II succeeded in holding Drayton against the duke, and Margaret felt that if she could hold a court there her position would be vastly improved. When she arrived the duke's party of sixty or more men was there before. They explained they were going to hold a court and Harleston seized Thomas Bond, one of the few men who had been brave enough to accompany Margaret. 'Thei ... led forth Thomas Bonde to Cossey, and bownde his armes be-hynde hym wyth whippecord like a theffe.' Early the next morning Margaret interviewed the judges before they began the court and laid the whole matter before them. When they understood the case they gave Suffolk's bailiff a stern rebuke and ordered the sheriff to see what forces were

1. P.L. (G), iv, 581; P.L. (D), i, 180.

2. P.L. (G), iv, 583; P.L. (D), i, 182.

accumulated on both sides. After he made his report, they overrode all the demands against the Pastons, released Bond, and censured the duke's officer.¹ It was shortly after this that Suffolk tried to invade the manor of Hellesdon. John I wrote to Margaret:

And lete yowr tenentes wete that the Dewke may never be lawe compel hem to torn from me, and do all so well as ye can. And if any entyr be mad in Heylisd[on], shuff him owt and set sum man to kepe the pla[c]e if ned be, not with-stand[i]ng it longith not to the maner.²

Earlier we discussed William Jenney's attempt to claim the manor of Cotton. He did this because he sided against the Pastons in the matter of Fastolf's will and was trying (and succeeding) to make their lives difficult. The Pastons sought out the duke of Norfolk to act as mediator after Margaret had deliberately stopped at Cotton to collect rents and assert her claims and Jenney arrived to challenge her. This was exactly the opening the duke of Suffolk had been hoping for. He attacked in July 1465 but, as Richard Calle wrote to John I:

we knowyng of ther comyng and purveyd so for hem that we were strong j-nough. We had lx men wythinne the place, and gonnes and suche ordynauns, so that³ if they had settle upp-on us they had be destroyed.

Suffolk allied himself with the mayor of Norwich and 'he sent after the meyr and aldermen ... that thei shuld take an enqueraunce ... what men shuld a go on your party to have holpyn or socowryd your men at any tyme ... and ... thei shuld take and arest hym and correct hym'.⁴

-
1. P.L. (G), iv, 599; P.L. (D), i, 189.
 2. P.L. (G), iv, 591; P.L. (D), i, 73.
 3. P.L. (G), iv, 593; P.L. (D), ii, 690.
 4. P.L. (G), iv, 616; P.L. (D), i, 194.

Margaret wrote to her husband that 'they be dayly in fere of there lyves. The Duke of Suffolk men thretyn dayly Dawbeney, Wykys, and Richard Calle that where so ever they may gete them they schold dye'.¹ John wrote immediately reassuring Margaret of their right to the manor and tracing the duke of Suffolk's lineage to prove his lack of right:

he is sone to William Pool, Dewk of Suffolk, sone to Mychell Pool, Erl of Suffolk, sone to Mychel Pool, the furst Erl of Suffolk of the Polis, made by King Richard seth my fader was born. And the seyd furst Mychell was sone to on William Pool of Hull, which was a wurchepfull man grow be fortwne of the world, and he was furst a marchant, and after a knyght, and after he was mad baneret. And if any of thees hadde the maner of Drayton I woll los cli.²

On 14 October 1465, the duke of Suffolk attacked Hellesdon at a moment when it was almost completely undefended and the next two days saw the place almost entirely pillaged: 'Memorandum, the pulling downe of the place at Hellesdon ... the pulling downe of the logge ... the distroyng of the waryne'.³ Margaret wrote, 'The Duck ys men rensackyd the church and bare a-vey all the gode that was lefte there, both of ourys and of the tenauntys'.⁴ The flagrancy of the attack won much support for the Pastons.

c The Siege of Caister Castle

After many years of difficulties including the problems of Hellesdon and Drayton, Sir John Paston was compelled to come to an agreement with one of the two surviving executors, William Waynflete.⁵ The

1. P.L.(G), iv, 594; P.L.(D), i, 188.

2. P.L.(G), iv, 595; P.L.(D), i, 74.

3. P.L.(G), iv, 615; P.L.(D), i, 195.

4. P.L.(G), iv, 617; P.L.(D), i, 196.

5. See below, pp.292-296.

outcome of this left the Pastons much less well off with Caister Castle as their only really valuable piece of property. We have seen that the duke of Norfolk occupied the castle at one time in 1461 and without doubt he was not the only person to covet this beautiful and strategic building. Caister therefore became the storm centre of attacks on the Pastons. So much so that John II found it expedient to set up a garrison of troops there. In 1468 he wrote to his brother, John III:

I have wayd for to helpe yow and Dawbeney to kepe the place at Castre iiiij wel assuryd and trew men to do al maner of thyng what that they be desyryd to do in save-gard ore enforcyng of the seyde place. And more-ovyre they be provyd men and connyng in the werre and in fetys of armys, and they kan wele schote bothe gonnys and crossebowes and amende and strynghe them, and devyse bolwerkys ore any thyngys that scholde be a strenkthe to the place; and they wol, as nede is, kepe wecche and warde.¹

Paston continued his fortifications until he was ordered to stop and appear before Edward IV at Westminster. At first Paston ignored these commands but Edward persisted and finally threatened him with disfavour if he did not obey. In a letter given under the signet he wrote:

We therefore eftstones write unto yow, willing and straitly chargeinge yow to cease of the sayd ryotts and assemblies, and that incontinent upon the sight of these our letters that ye dispose yow personally to appeare afore the said lords of our counsell at our said pallis, there to answeare to such thinges as in that behalfe by them shall be layde and objected against yow; not faylinge hereof, all excuses layde aparte, as ye will avoyde our displeasure.²

Despite the stern tenor of this letter Edward, as we have seen, was a king who was always most anxious to deal justly with his subjects.

1. P.L.(G), iv, 691; P.L.(D), i, 238.

2. P.L.(G), v, 698; P.L.(D), ii, 757.

Therefore he ordered an inquiry into the problems over Caister. On 10 April 1469 Lord Scales addressed the council of the duke of Norfolk. As far as Paston was concerned, this could only be a good choice of champion for he was, at that time, engaged to Anne Haute, a kinswoman of Lord Scales.¹ It was found at this investigation that certain servants of Norfolk 'felleth wode, maketh grete wast, and destrayned the tenauntys of the seyde landys ... and also that my seyde lord entendyth to entre sertayn places of the same ... I hertely pray you that ... you ... advyse my sayde lord and yourys that all such entres, fellyng of wode, destraynyng of tenantys and all such maters lyke touchyng the sayde landes or any part of them be cessyd'.²

This was not the first clue that Norfolk was planning to take Caister once again. An harrassment of the Pastons began before they suspected Caister as a target. In January 1469 William Coting wrote to Calle, 'this day in the grey mornnyng iij men of my lord of Norffolk ... have take and led away iij good hors fro John Poleyn, on of your fermores at Tichewell ... These pouere fermores are liche to be undo'.³ In March Margaret wrote a letter to John II that was clearly the preliminary to the enquiry by Scales in April. 'My lord of Norffolk and his councell ... have felled all the wood and this weke thei wull carie it a-wey, and lete renne the wateres and take all the fyssh.' She advises him to write to the king.⁴ In May John III wrote to John II a letter that clearly states Norfolk's purpose:

-
1. P.L. (G), v, 707; P.L. (D), ii, 905.
 2. P.L. (G), v, 706; P.L. (D), ii, 904.
 3. P.L. (G), v, 697; P.L. (D), ii, 903.
 4. P.L. (G), v, 701; P.L. (D), i, 200.

thys Pentcost is my lordys consell at Framlyngham,
and they purpose thys week and the next to hold
coortys her at Caster and at all othyr maners that
wer Sir John F., purchasyd of Yellverton and of
Syr T.H. ...¹

It was shortly after this that Edward IV was captured by Warwick, and in the ensuing disorder Norfolk seized his chance. In August 1469 he began an ordered attack on Caister, surrounding its walls with 3,000 armed men. Because of his position as a leading magnate, Norfolk was able to command the services of many men, some of whom had been at one time involved with or considered themselves friends of the Pastons. The duke was accompanied by his brother-in-law, Sir Humphrey Talbot, and another important figure, John Radclyffe. The latter brought with him two of his family, James Radclyffe and Black John Radclyffe; there was also Sir Thomas Waldegrave of Smallbridge and Henry Wentworth of Nettlestead. Sir John Wingfield of Letheringham was accompanied by William and Thomas Wingfield. John Heveningham 'was first sent to deliver the castle to the Duke, but the lieutenant would not'; in 1458 he had been involved with the Pastons. Four members of the Debenham family were also at the siege. Sir William Calthorpe was a friend and cousin of the Pastons but he was unable to avoid coming. Besides these various knights and gentlemen, Norfolk was also able to command a large number of lesser retainers who had made their careers in Mowbray service.²

By the middle of September the position was becoming increasingly difficult for the men inside the castle. John II, in London, appeared to be little concerned with the events in Norfolk, and on 12 September Margaret wrote to him:

1. P.L.(G), v, 710; P.L.(D), i, 332.

2. William Worcestre, Itineraries, ed. J. H. Harvey (Oxford, 1969), 189.

your brothere and his felesshep stond in grete
joporté at Cayster and lakke vetayll ... and thei
fayll gonnepowder and arrowes, and the place sore
brokyn with gones of the toder parte; so that,
but thei have hasty help, thei be like to lese
bothe there lyfes and the place ... And thei
[Norfolk's men] purpose than to make a gret assaught
... There-fore ... I charge you and require you that
ye se your brothere be holpyn in hast.¹

She also advised writing to the duke of Clarence or the archbishop of York for help in curtailing the activities of the duke of Norfolk. John wrote back immediately asking his mother why she was so upset, 'I ensure yow that I have herde x tymes werse tydyngys syn the assege by-gan than any letter that ye wrot to me'. He also stated that there was no point in writing to either magnate as Norfolk would pay no attention to anything they might order him to do. He concluded by writing:

But thys I ensure yow, that they that be wyth-yn
have no werse reste than I have, nere castyth mor
jupperté. But whethyre I had goode tydyngys er
ill, I take Gode to wittnesse that I have don my
devoyre as I wolde be don fore in case lyke, and
schall doo tyll ther be an ende of it.²

John seems to have been very sure of himself and of the abilities of the defenders of Caister. Inside the castle were John III, Osbern Berney of Braidstone, and John Daubney. Under them were a mere handful of servants and valets.³ These men were not only few in number, but were being forced to ration food for supplies were low and John II, believing the case to be better than reported, had omitted to send any provisions. Nor did he send a relief party or attempt at any time to achieve a truce. As a result, the garrison was forced to surrender on 26 September.⁴

1. P.L. (G), v, 724; P.L. (D), i, 204.

2. P.L. (G), v, 725; P.L. (D), i, 243.

3. Worcester, Itineraries, 191.

4. P.L. (G), v, 730; P.L. (D), ii, 786.

In his position as victor, Norfolk could afford to be generous, and an agreement was reached whereby Paston and his men (although by this date Daubney was dead) were allowed to leave the castle 'havyng their lyves and goodes, horsse and harneys, and other goodes beyng in the keypyng of the seid John Paston, except gones, crosse-bowes, and quarelles, and alle other hostelmentes'. They were also given fifteen days to remove themselves to wherever they liked without being liable to attack or legal action.¹ Each man was issued with a type of passport giving him safe passage from the duke himself:

Wherefore we pray, wil, and charge you and every-
sche of you, that ye ne vexce, trouble, manase, ne
greve the forseid persones, nor eny of them, for
the keypyng of the seide manere contrary to the Kyng
our Sovereynge Lordes lawyes, for we have takyne
them in our safe garde.²

Although the duke of Norfolk was now in possession of Caister and John III and his followers had been given safe passage out, the case was by no means closed. Sir John was not popular with his family because of his policy of non-intervention, and John III was compelled to take upon himself all the business stemming from the siege. He owed Margaret £8 besides the £10-£12 he had paid out of his own pocket. There appear to have been problems in proving Daubney's will and John III wrote to his brother asking him to send an auditor to take account of Daubney's bills; the bishop was threatening to sequester if matters were not settled. He added a postscript to the letter, a final accusatory note:

1. Ibid.

2. P.L.(G), v, 731; P.L.(D), ii, 909.

By Sent George, I and my felawshep stand in fer of my lord of Norffolkys men, for we be thret sore, not wythstandyng the save gardys that my felawshep have. As for me, I have non, nor non of your hows-old men, nor non wyll have; it wer shame to take it.¹

In December 1469 John III again wrote to his brother to inform him that the duke of Norfolk had convinced two widows of men slain at the siege to 'swe a peell ayenst me, and syche as wer ther wyth me wyth-yn the plase'.² Six months later this case arose again. 'On Wednysday last past ye and J. Pampyng, and Edmu[n]d Broom wer endyttyd of felonye ... for shotyng of a gonme at Caster in August last past.' John II was named only as an accessory but the other two men were principals.³

Neither was this the end of the case for Paston continued to petition the king for his rights. The castle was restored to them for a short time in 1470 because of the family's Lancastrian sympathies and the fact that they had, at one time, lent a substantial sum of money to George Neville, archbishop of York. However, as soon as Edward IV returned to England and the Lancastrians were finally ousted, Norfolk seized Caister once again. How many times, one wonders, did the Pastons believe they were never to hold the castle again? It was not until 1476 and the sudden death of the duke of Norfolk that it was finally restored to them. John II wrote to his mother, 'blissed be God, I have Castre at my will. God holde it better than it [was] doone her-to-foore'.⁴

1. P.L.(G), v, 735; P.L.(D), i, 335.

2. P.L.(G), v, 740; P.L.(D), i, 337.

3. P.L.(G), v, 746; P.L.(D), i, 342.

4. P.L.(G), v, 892; P.L.(D), i, 300.

d The Compromise with Waynflete

In 1465 Margaret wrote to John I:

My Lord of Norwych seyde to me that he wold not ha
byden the sorow and trobell that ye have a-byden
to wyn all Ser John Fastolf ys gode.¹

By 1470 no doubt the whole family was feeling much as the bishop of Norwich so it is not surprising to discover that John II opted to make a deal with Waynflete. As early as 1468 Paston was considering transferring the site of Fastolf's college from Caister to Cambridge. Worcester wrote to Margaret, 'albe it my lord of Wynchestre ys disposed to found a collage yn Oxford for my seid maister to be prayd for'.² In 1470 this inclination of both men became a reality when it became apparent that it would be a way for the family to extricate itself from its debts.

The compromise over Caister Castle was not the first time Waynflete had played an important rôle in the establishment of various foundations. After the first battle of St. Albans Henry VI made over to Waynflete and John Chadworth, bishop of Lincoln, the oversight, correction, and reformation of the statutes of his two colleges of Eton and King's, Cambridge, for the rest of his natural life although Henry retained control in a supervisory capacity.³ Waynflete had a reputation as a just man and this was probably why the Pastons sought him out for support in 1450 and why Fastolf named him as an executor. The compromise in 1470-4 between Waynflete and John II was not effected because he was one of the remaining executors but probably primarily because his position and authority, and his reputation for probity suggested to the Pastons the likelihood of a fair compromise.

1. P.L. (G), iv, 582; P.L. (D), i, 181.

2. P.L. (G), iv, 681; P.L. (D), ii, 727.

3. Wolffe, Henry VI, 295.

The actual contract was fairly simple in concept. Very basically, John II agreed to divide all the Fastolf lands in Essex, Surrey, Norfolk, and Suffolk, and to surrender all the title deeds except Caister's. Bishop Waynfilete then undertook to establish a college of priests and poor men at his new foundation of St. Mary Magdalen at Oxford. Obviously this is a very simple synopsis and the actual indenture was far more complicated. In August 1470 John Paston II bound himself to 'doo trwe and faithfull servyce unto the said reverend fader' and to aid in the founding of the college at Oxford by handing over all the 'dedes, chartres, munymentez, court rollez, rentallez, rollez of accomptez, or copyez, other than soolly concernyng the maner of Castre'.¹ William Yelverton helped the deal by promising not to receive any sums 'great or small, on account of Fastolf's goods, debts, or possessions, without the assent of the Bishop' and that he would not make any grant without the bishop's approval.²

It was, as we have seen, primarily the ownership of Caister which had proved the biggest problem throughout the 1460's. Perhaps one of the reasons was that the contenders for the property could not endure the concept that such a place should be amortised and it was to prevent such an eventuality that it became such a centre of conflict. By conceiving the idea of diverting the college from Caister to Oxford, Waynfilete clearly hoped to diminish the problems. In order to accomplish this he had to enlist the aid of William Worcestre who still retained all the important documents pertaining to the Fastolf estate. In order to obtain them Worcestre was given lands near Norwich called Fairchildes, and

1. P.L. (G), v, 757; P.L. (D), i, 344.

2. P.L. (G), v, 739.

two tenements and gardens called Walles in Southwark. Waynflete also covenanted to pay him £100 and an allowance.¹

When we consider Waynflete's gain in proportion to his loss we see that this concession to Worcestre could not possibly have made the slightest difference to him. For 'in ceesyng of variances, pleez, and troublez which have fallen' Waynflete became the recipient of 'any title, possession, or interesse in any maners, londes, tenementez, or other possessions which were of the seid John Pastolf'. He demised to John Paston the manor of Caister in fee simple as well as Spensers in Herringby² with all their lands and tenements. This gave John II the lands of Vaux, Reedham,³ Bosoms, and Caister as well as Spensers, for the former was an extensive piece of property. Waynflete also divided the estates of Winterton, Repps with Bastwick,⁴ lands and tenements in Herringby, Yarmouth and Bills in Stokesby, and one-third of the manor of Rounham⁵ between John Paston III, Roger Townsend, Guy Fairfax, Nicholas Harvey, and William Danvers. In return for all this Waynflete agreed 'to obteyne of the Pope a sufficiant dispensacion for chaungyng of the place and fundacion of the seid perpetuel prestes and poore folkes fro the seid maner of Caster'. He proposed to establish the college at

1. Hist. MSS Comm., 4th Report, 462a.

2. Herringby is a hamlet in E Norfolk on the River Bure 5 miles NW of Yarmouth; Bartholemew, Gazetteer, s.v. 'Herringby'.

3. Reedham is a village in Norfolk 8 miles SW of Yarmouth. It was a seat of the kings of East Anglia; Bartholemew, Gazetteer, s.v. 'Reedham'.

4. Winterton is a coastal village in Norfolk 8 miles N of Yarmouth. Repps with Bastwick is also in Norfolk 10 miles NW of Yarmouth; Bartholemew, Gazetteer, s.v. 'Winterton' and 'Repps with Bastwick'.

5. Stokesby is a village in Norfolk on the River Bure 6 miles NW of Yarmouth. Runham, also in Norfolk, lies 4 miles NE of Great Yarmouth; Bartholemew, Gazetteer, s.v. 'Stokesby' and 'Runham'.

Oxford for exactly those purposes Fastolf had in mind when he made the bequest: to whit 'to praye for the sowles of the seid John Fastolf and of Dame Milicent his wife, his frendys and benefactoures'. The next clause, which would be of far more importance to the Paston family, relieved John II of paying the 4,000 marks specified by Fastolf in his will, and of any 'money, jowelex, plate, aras, and all godez and catallex quyk and ded' which the Pastons had taken for their personal use.

Paston promised to hand over all 'dedes, chartres, evydances, and munimentz' concerning any of the specified manors. They were to be brought to the church of St. Mary Ovary in Southwark with those relinquished by Waynflete and locked into a chest fitted with two keys. Each man was to have one key so that the chest could not be opened without both present.¹

In the indentures, Waynflete undertook to cause the duke of Norfolk to relinquish his claim to Caister. If he would not, the bishop would substitute the manor of Guton for Paston.² On 11 December 1470 Norfolk released to Waynflete the manors of Caister, Winterton, Beighton,³ Bastwick, and Tolthorp in Norfolk, and Caldecote and Burnviles in Suffolk. These lands had been sold to him, he claimed, by Yelverton, Howes, and Jenney in a deed dated 1 October, 8 Edw. IV (1468). He had subsequently been informed by the archbishops of York and Canterbury, and by Waynflete, that the bargain had been made contrary to the will of Sir John Fastolf. He also undertook to deliver up all the necessary documents. For this he was paid 500 marks.⁴

1. P.L. (G), v, 750; P.L. (D), i, 252-254.

2. Ibid.

3. Beighton is a village in S Norfolk 3 miles NE of Buckenham, Bartholemew, Gazetteer, s.v. 'Beighton'.

4. Hist. MSS Comm., 4th Report, 461b.

There can be no doubt that the arrangement between Paston and Waynflete was entirely a compromise. It would certainly have shocked any legal purists, but it arose out of necessity. As Waynflete announced, however:

if any persone wold dowte, grugge, obiecte, or muse upon the lymytacion of the place with-in the seid université, it is to be understod that it was the will, ordinaunce, and graunt of Ser John Fastolf that if any maner of dowte, difficulté, or diversité of conceites or oppynyons shuld happen to fall in any poynt of the mater of his wille, that then his executours or the more partie of them, and none other persone, shuld have auctorité and power to interprett, declare, and determyn the same.¹

This was buttressed by Paston himself who undertook to 'do true and faithful service to the bishop' by 'aiding and assisting to him and Magdalen College, in order that the lands may be let to their greatest profit'.² The conflict surrounding Fastolf's will was still not settled, however, but in 1473 John II wrote to his brother, John III:

as for the Bysshop and I, we bee nerre to a poynt than we weere, so that my párt is nowe all the londes in Flegge holly, the maner off Heylesdon, Tolthorpe, and ten[emen]tys in Norwyche and Erlham excepte Fayrechyllys; but farweell Drayton, the devyll doytt them!³

iii Conclusion

As was stated in the introduction to this chapter, it is impossible to make any sort of absolute judgement on John Paston I's rôle in the production of the nuncupative will of 3 November 1459. It is an

1. P.L.(D), ii, 914.

2. P.L.(G), v, 755.

3. P.L.(G), v, 834; P.L.(D), i, 277. Earlham, spelt Erlham in this letter, is in Norfolk, W of Norwich; Bartholemew, Gazetteer, s.v. 'Earlham'.

uncertainty, as are so many in history, which could only be clarified by the protagonist himself, and Paston made his position quite clear in the inquisition of 1465. It is possible, however, to attempt a character judgement which would perhaps aid in establishing whether Paston was capable of forgery on such a grand scale and so blatantly in his favour.

In the first instance, its favouritism would tend to make one feel that Paston had little to do with it. He had been trained in the law and, though perhaps a trifle ingenuous, he was not a stupid man. He would have dealt on many occasions with wills and would have been quite aware of how feasible a bequest that size would be. Why would he deliberately call trouble upon himself and his family? John I was a product of the most disturbed years of the fifteenth century, he would have been equally aware of the effect of the size of the bequest on his neighbours and fellow executors. Again, would he deliberately court their antagonism and greed?

One can, on the other hand understand how Yelverton, Worcestre and the other executors could believe him capable of fixing the will in his own favour. The will of 3 November was nuncupative - this would mean that Fastolf had been too weak to write or sign it himself; in effect it gave John Paston total power of attorney. Fastolf would not have re-read it, Paston could have made any changes he liked. In a position like that what man would not at least be tempted to twist the bequest in his own favour? Even if he did not actually make up the contents out of whole cloth, might not he have bullied the old man into making him chief beneficiary? It is certainly a possibility. Turning the coin again we observe that as a man of affairs Paston was almost boring in his

rectitude, so we might observe that the position of trust in which he found himself would have had precisely the opposite effect than the one the executors suspected and of which they accused him.

So we see that the arguments go back and forth, that there were and are still two sides to each argument. As it is impossible to make a judgement therefore, we can only accept the subsequent events at their face value; we can only attempt to understand the reasoning behind them.

There is certainly no way we can condone Norfolk's siege of Caister but we can try to understand the rationale behind it. Jealousy clearly played an important rôle in his actions. With the picture that we have of Caister as it was, and with the knowledge of Fastolf's will and the affect it had on those in contact with Paston, it is not difficult to picture the castle besieged. There were clearly other factors which caused Norfolk's actions, and the knowledge that the country was too disorganized to be able to effectively stop him probably made the seizure of Caister that much more attractive. However, Fastolf's bequest was clearly and absolutely the major motivating factor. This might also be applied to the attempted seizures of Hellesdon, Drayton and the other manors which had so suddenly become Paston property. So, finally, we might state that when Fastolf burdened John I with the responsibility of establishing a college at Caister and rewarded him with all his lands in Norfolk, Suffolk, and Norwich, he added substantially to the disorder in Norfolk, and only managed to encumber unnecessarily the man he described as 'my good cosyn Paston ... a feythful man'.¹ He was indeed faithful and he paid the price for it.

1. P.L.(G), iii, 383; P.L.(D), ii, 583.

APPENDIX I

This document is of unknown authorship, probably composed after William I's death in 1144 but before that of John I in 1166. It was extant in 1823 according to Professor Davis but has since disappeared. He believes it still to be in existence. He feels that the original discoverer of this document was correct in assigning it to the fifteenth century by reason of the spelling, and he adds that several of the spellings are characteristic of Norfolk so it is clearly a contemporary piece of work.

A Remembraunce of the wurshypfull Kyn and Auncetrye of Paston, borne in Paston in Gemyngham Soken.

Fyrst there was one Clement Paston dwellyng in Paston, and he was a good pleyn husbond, and lyvyd upon hys lond y^t he had in Paston, and kept y^r on a Plow alle tymes in y^e yer, and sumtyme in Barlysell to Plowes.

The seyde Clement yede att on Plowe both wynt^r and sōmer, and he rodd to mylle on the bar horsbak wyth hys corn und^r hym, and brought hom mele ageyn under hym.

And also drove hys carte with dyv^{rs} cornys to Wynt^r ton to selle, as a good husbond ought to do.

Also he had in Paston a fyve skore or a vj skore acrys of lond at the most, and myche y^r of bonde lond to Gemyngham-halle w^t a lytyll pore watyr-mylle rennyng by a lytylle ryver y^{re}, as it apperyth y^{re} of old tyme.

Oy^r Lyvelode ne maneris had he non y^{re} ne in none oth^r place.

And he weddyd Geffrey of Somerton (qwhos trew s^rnome ys Goneld) Sist^r qwhych was a bond womanne to qwhom it is not unknowyn (to y^e Pryore of Bromholm and Bakton also, as y^t is seyde) yf y^t men wyll inquire.

And as for Geffrey Somerton he was bond also, to whom, &c. he was both a Pardoner and an Attorney; and y^{an} was a good werd for he gadred many pens and halfpens, and y^{re} with he made a fayre Chapelle att Somerton as it aperyth, &c.

Also the seyde Clement had a sone William qwhych y^t he sett to scole, and oftyen he borowyd mony to fynd hym to scole; and aft^r y^t he yede to Courte wyth y^e helpe of Geffrey Somerton hese uncle and lerned the lawe, and y^{re} bygatte he myche good and yanne he was made a S^rjaunt, and aft^rward made a Justice, and a ryght connyng mane in ye lawe.

And he purchasyd myche lond in Paston, and he also purchasyd the moyte of ye Vth parte of ye man^r of Bakton callyd oy^r Latymers or Stywardys or Huntyngheld qwhych moyte stretchyd into Paston, and so wyth y^t and...wyth a noth^r parte of ye seyde fyve partys he hath Senery in Paston but no man^r place; and therby wold John Paston sone to ye seyde Wylliam make hym selfe a Lordschype y^r to ye Duke of Lancastrs grete hurte.

And the seyde John wold and hath untrewly inressyd hym by one tenente as wher that the Pry^r of Bromholm borowyd mony of the seyde William for to paie w^t all his Dymes, ye seyde William wuld not lend it hym, but the seyde Pry^r wold morgage to y^e seyde...Wylliam one John Albon ye seyde Pryowris bondmane dwellyng in Paston, qwhych was a styffe Cherle and a Threfty mane, and wold not obeye hyme unto y^e seyde Wylliam, and for

y^t cause and for evyll wyll y^t y^e seyde Wylliam had un to hym he
desyryd hym of the Prio^r, and nowe aft^r y^e deth of the seyð Will^m y^e
seyð John Albon deyd, and nowe John Paston son to the seyð William by
force of the seyð morgage sent for the son of the seid John Albon to
Norwyche.

P.L.(D), i, pp.xli-xlii.

THE PASTONS:

Wulstan de Paston
and Raffe de Paston



OR, A FLOWERET
AZURE

Robert de Paston
and Edmund de Paston



ARGENT, A FLOWERET
AZURE

GLANVILLE



AZURE, A CHIEF
INDENTED OR

WALTER DE PASTON



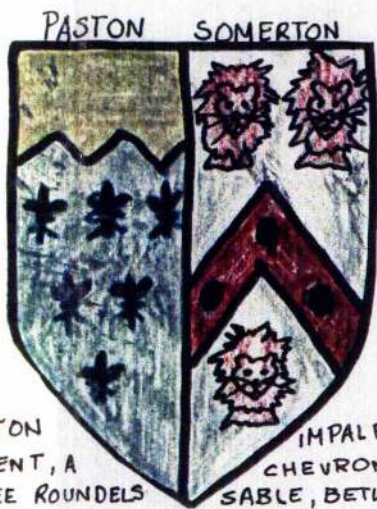
ARGENT, A FLOWERET AZURE
INDENTED IN CHIEF OR

PASTON



ARGENT, SIX FLEUR DE LYS
AZURE, THREE, TWO, AND
ONE, INDENTED IN CHIEF OR

THEIR SPOUSES,



PASTON
ARGENT, A
THREE ROUNDELS
LIONS HEADS COUPED, TWO AND ONE, GULES.
IMPALED WITH
CHEVRON GULES,
SABLE, BETWEEN THREE



PASTON
ARGENT, A
THREE BEARS' HEADS COUPED SABLE
MUZZLED OR, TWO AND ONE.
IMPALED WITH
CHEVRON BET



ARGENT, A
OR FOR PASTON
A CROSS OR.
CHIEF INDENTED
IMPALED WITH AZURE



BARRY OF
VERT, A BEND
SIX OR AND
GULES.



SABLE, THREE
BETWEEN FOUR
LIONS PASSANT
BENDLETS ARGENT.



ARGENT, A
LION RAMPAN
QUEUE FORCHEE, BETWEEN TEN
CROSS CROSSLETS GULES.

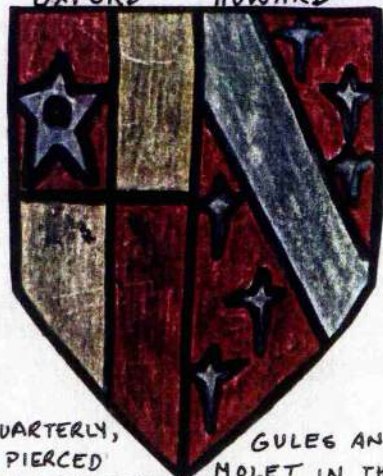
AND THEIR FRIENDS.

FASTOLF



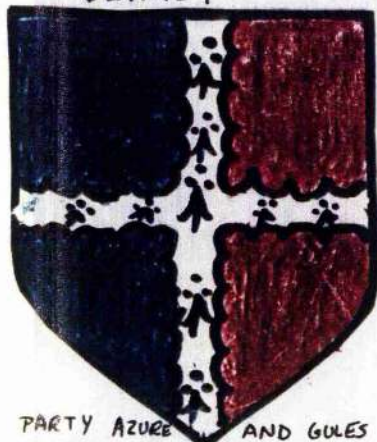
QUARTERLY, OR AND AZURE,
THREE CROSSLETS OF THE FIRST
ON A BEND GULES.

OXFORD HOWARD



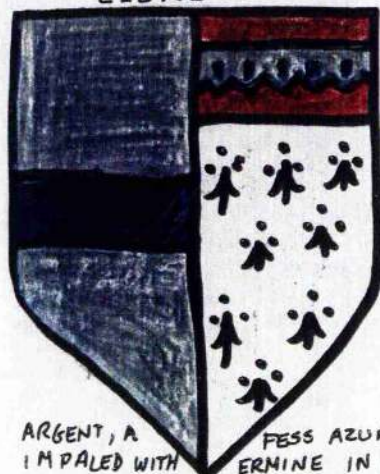
QUARTERLY, GULES AND OR
A PIERCED MOLET IN THE
FIRST QUARTER IMPALED WITH GULES,
BEND BETWEEN SIX CROSSLETS FITCH
THREE AND THREE, ARGENT.

BERNEY



PARTY AZURE AND GULES
A CROSS ENGRAILED ERMINE

CLERE



ARGENT, A FESS AZURE
IMPALED WITH ERMINE IN CHIEF
GULES CHARGED WITH A FESS INDENTED
OF THE FIRST WITH A BILLET OF THE
SECOND IN EACH FUSIL.

APPENDIX III

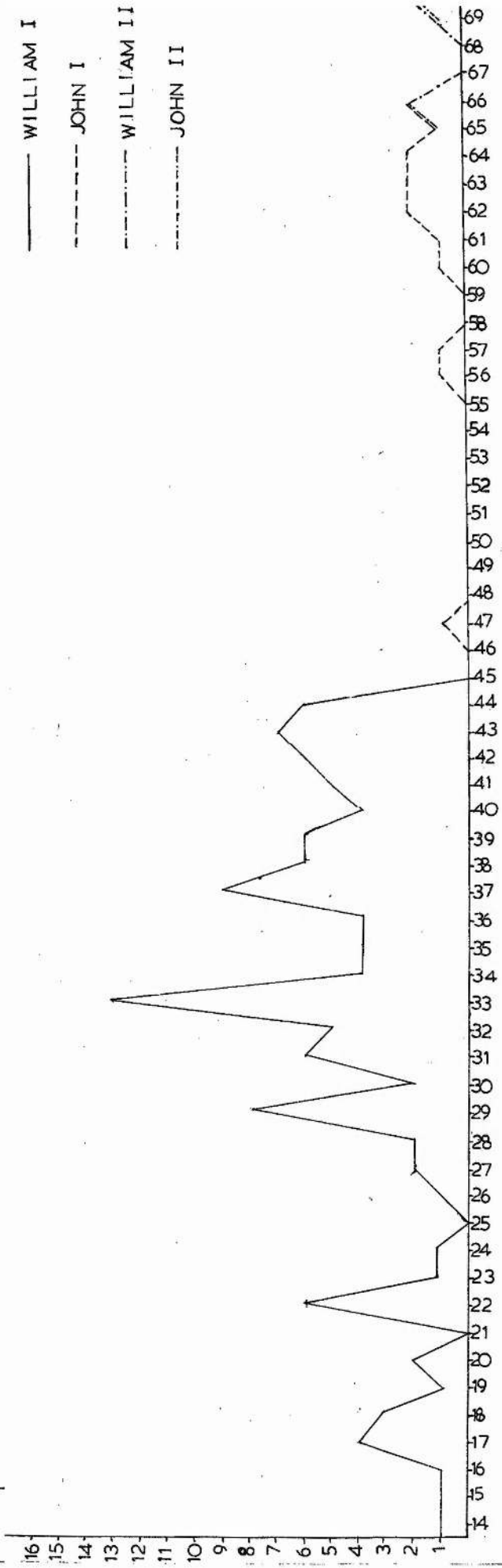
A writ to attach John Paston II, February 1463.

Rex vi[ce] comitibus Norwici salutem. Precepimus vobis quod capiatis Johannem Paston juniorem, nuper de Norwico, armigerum, si inventus fuerit in balliva vestra, et eum salvo custodiatis ita quod habeatis corpus eius coram nobis a die Pasche in unum mensem ubicunque tunc fuerimus in Anglia, ad respondendum nobis de quibusdam felonijs et transgressionibus unde in comitatu nostro Suffolchie indictatus est. Et si predictus Johannes in balliva vestra inveniri non poterit, tunc ad duos comitatus in balliva vestra citra terminum predictum proximo tenendos iuxta formam statuti in huiusmodi casu provisi proclamari faciatis quod idem Johannes sit coram nobis ad prefatum terminum ad respondendum nobis de premissis. Et habeatis ibi hoc breve. Teste Johanne Markham apud Westmonasterium xxj^o die Januarij anno regni nostri secundo.

CROXTON

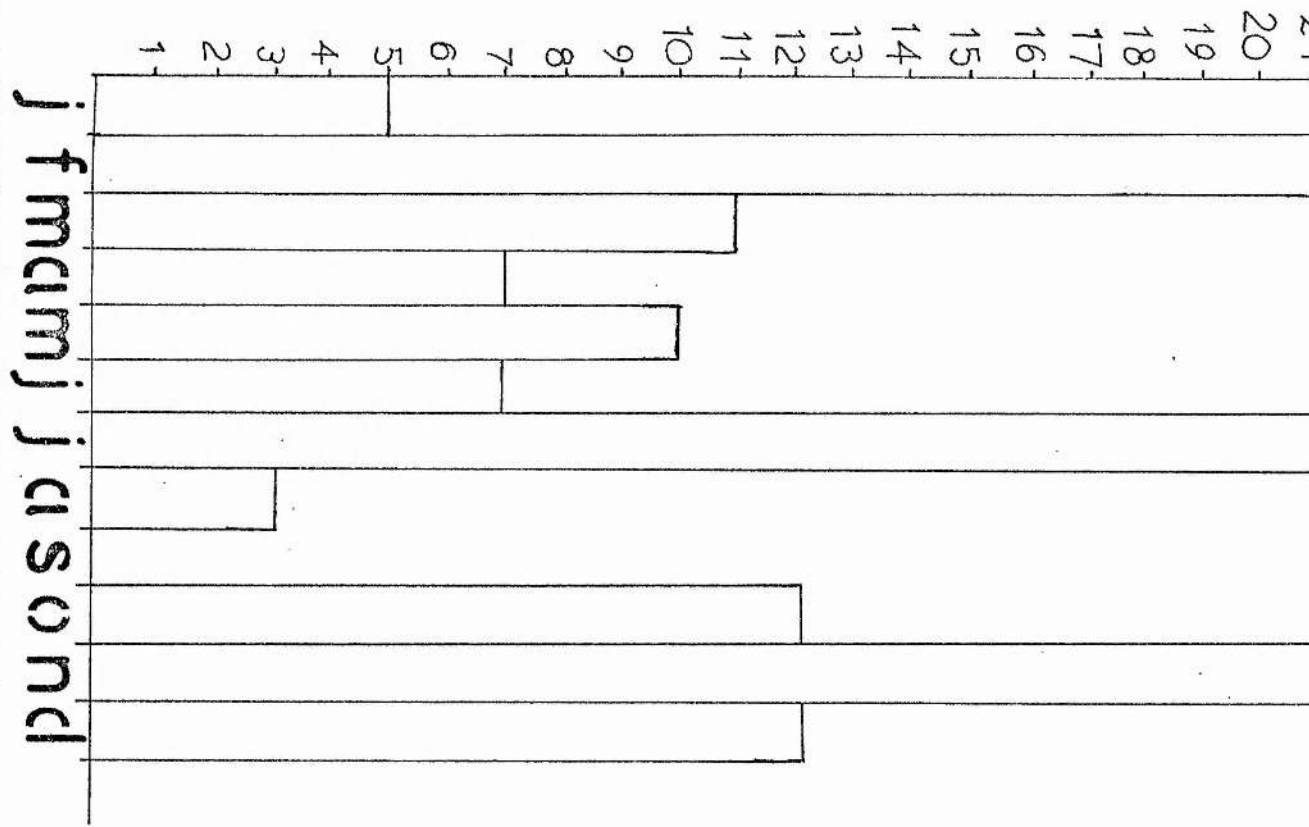
Rotulo xxvj^o R. Per contr' Anno secundo Regis Ed. iiiij^{ti} r. xiiij.
Irrotulatur coram Rege de recorde, termino Hillarii anno secundo Regis Ed. iiiij^{ti}, prout patet in rotulo infrascripto.

P.L.(G), iv, 538; P.L.(D), ii, 678.



THE PASTONS' YEARLY COMMISSIONS OF THE PEACE PER PERSON 1414-1470

APPENDIX W:



THE PASTONS'
 MONTHLY COMMISSIONS OF THE PEACE
 1414-1470

APPENDIX VI

Inquisition after the death of William Paston I. A writ of diem clausit extremum.

Inquisicio capta apud Wynterton secundo die Novembris anno r.r. Henrici vj^{ti} post Conquestum vicesimo tercio coram Roberto Clere, escetore domini Regis in comitatibus Norffolcie et Suffolcie, virtute brevis domini Regis sibi directi et presenti inquisitioni consuti, per sacramentum Johannis Berkyng, Nicholai Pikeryng, Johannis Chapell, Johannis Jekkys, Willelmi Stiwardson, Roberti Hesele, Johannis Topy, Johannis Wacy, Johannis Rychers, Thome Broun, Walteri Heylok, Willelmi Stotevyle, Thome Mason, Roberti Marche, Johannis Kechon, legalium et proborum hominum in hac parte pro domino Rege juratorum: Qui dicunt super sacramentum suum quod Willelmus Paston nominatus in dicto brevi nulla terras et tenementa tenuit de domino Rege in capite die quo obiit in comitatibus predictis. Et quod obiit quartodecimo die mensis Augusti anno regni domini Regis predicti xxij. Et quod Johannes Paston filius ipsius Willelmi est heres eius propinquior et etatis xxij annorum.

P.L.(G), ii, 56; P.L.(D), ii, 441.

BIBLIOGRAPHY

Primary Sources

- Amyot, T., ed., 'An Inventory of Effects formerly belonging to Sir John Fastolf', Archaeologia, 21 (1827), 232-280.
- Anstis, J., The Register of the Most Noble Order of the Garter, (London, 1724).
- Barnes, H. D. and Simpson, W. D., eds., 'The Building Accounts of Caister Castle A.D. 1432-1435', Norfolk Archaeology, 30 (1948-52), 178-188.
- Brackley, Friar J., 'Book of Arms', The Ancestor, 10 (1904), 87-97.
- Calendar of Close Rolls.
- Calendarium Inquisitionum Post Mortem.
- Calendar of Patent Rolls.
- Davis, N., ed., Paston Letters and Papers of the Fifteenth Century, 2 volumes, (Oxford, 1971 and 1976).
- Fortescue, Sir J., The Governance of England, ed. C. Plummer, (1888).
- Gairdner, J., ed., The Paston Letters A.D. 1422-1509, 6 volumes, (London, 1904).
- , Three Fifteenth-Century Chronicles, (Camden Society, 1880).
- The Historie of the Arrivall of King Edward IV. A.D. 1471, (Camden Society, 1837).
- Lists and Indexes, IX, Public Record Office.
- Putnam, B. H., ed., Proceedings before the Justices of the Peace in the Fourteenth and the Fifteenth Centuries, (London, 1938).
- Rotuli Parliamentorum.
- Royal Commission of Historical Manuscripts.
- Rymer, T., Foedera, Conventiones, Litterae ..., 20 volumes, (1704-35).
- Sneyd, C. A., ed., A Relation, or Rather a True Account of the Island of England, (Camden Society, 1847).
- Worcestre, W., Itineraries, ed. J. H. Harvey, (Oxford, 1969).

Secondary Sources

- Armstrong, C. A. J., 'Politics and the Battle of St. Albans, 1455', Bulletin of the Institute of Historical Research, 33 (1960), 1-72.
- Avery, M. E., 'The History of the Equitable Jurisdiction of Chancery before 1460', Bulletin of the Institute of Historical Research, 42 (1969), 129-144.
- Barnes, H. D. and Simpson, W. D., 'Caister Castle', The Antiquaries Journal, 32 (1952), 35-51.
- Bartholemew, J. G., ed., The Survey Gazetteer of the British Isles, (Edinburgh, 1904).
- Bean, J. H. W., The Decline of English Feudalism, (Manchester, 1968).
- Beard, C. A., The Office of Justice of the Peace in its Origin and Development, (New York, 1904).
- Bellamy, J. G., Crime and Public Order in England in the Later Middle Ages, (London, 1973).
- , 'Justice under the Yorkist Kings', American Journal of Legal History, 9 (1965), 135-155.
- Bennett, H. S., The Pastons and their England, (Cambridge, 1922).
- Blatcher, M., The Court of King's Bench 1450-1530, (London, 1978).
- Chrimes, S. B., 'John, First Duke of Bedford; his Work and Policy in England, 1389-1435', Bulletin of the Institute of Historical Research, 7 (1929), 110-113.
- , Lancastrians, Yorkists and Henry VII, (London, 1964).
- Dictionary of National Biography.
- Dunham, W. H., 'Lord Hastings' Indentured Retainers 1461-1483', Transactions of the Connecticut Academy of Arts and Sciences, 39 (1955), 1-175.
- Gillingham, J., The Wars of the Roses, (London, 1981).
- Goodman, A., The History of England from Edward II to James I, (London, 1977).
- , The Wars of the Roses. Military Activity and English Society 1452-1497, (London, 1981).
- Griffiths, R. A., 'Duke Richard of York's Intentions in 1450 and the Origins of the Wars of the Roses', Journal of Medieval History, 1 (1975), 187-209.

- , 'Local Rivalries and National Politics: The Percies, the Nevilles, and the Duke of Exeter, 1452-1455', Speculum, 43 (1968), 589-632.
- , The Reign of King Henry VI. The Exercise of Royal Authority, 1422-61, (London, 1981).
- , 'The Sense of Dynasty in the Reign of Henry VI', Patronage, Pedigree and Power in Later Medieval England, ed. C. D. Ross, (Gloucester, 1979), 13-36.
- Hanawalt, B., Crime and Conflict in English Communities 1300-1348, (Cambridge, Mass., 1979).
- Harding, A., The Law Courts of Medieval England, (London, 1973).
- Harding, A., 'The Origins and Early History of the Keepers of the Peace', Transactions of the Royal Historical Society, 10 (1960), 85-109.
- Hastings, M., The Court of Common Pleas in Fifteenth-Century England, (Ithaca, N.Y., 1947).
- Hicks, M. A., 'The Changing Role of the Wydevilles in Yorkist Politics to 1483', Patronage, Pedigree and Power in Later Medieval England, ed. C. D. Ross, (Gloucester, 1979), 60-86.
- Hodge, M. E., 'Sir John Fastolf. A Biographical Study', Unpublished M.Litt. Dissertation, (St. Andrews, 1972).
- Ives, E. W., 'The Common Lawyers in Pre-Reformation England', Transactions of the Royal Historical Society, 5th Series, 18 (1968), 145-173.
- , 'Promotion in the Legal Profession of Yorkist and Early Tudor England', Law Quarterly Review, 75 (1959), 348-363.
- , 'The Reputation of the Common Lawyers in English Society, 1450-1550', The University of Birmingham Historical Journal, 7 (1960), 130-161.
- Jacob, E. F., The Fifteenth Century 1399-1509, (Oxford, 1961).
- Jeffs, R. M., 'The Poynings-Percy Dispute. An Example of the Interplay of Open Strife and Legal Action in the Fifteenth Century', Bulletin of the Institute of Historical Research, 34 (1961), 148-164.
- Jewell, H. M., English Local Administration in the Middle Ages, (Newton Abbot, Devon, 1972).
- Kendall, P. M., The Yorkist Age, (London, 1962).
- Kingsford, C. L., English Historical Literature in the Fifteenth Century (Oxford, 1913).

- Lander, J. R., Conflict and Stability in Fifteenth-Century England, (London, 1969).
- , 'Council, Administration and Councillors, 1461 to 1485', Bulletin of the Institute of Historical Research, 32 (1959), 138-180.
- , 'Edward IV: the modern legend and a revision', Crown and Nobility, 1450-1509, (London, 1976), 159-170.
- , Government and Community : England 1450-1509, (London, 1980).
- , 'Henry VI and the Duke of York's Second Protectorate, 1455-6', Crown and Nobility, 1450-1509, (London, 1976), 74-93.
- , 'Marriage and Politics in the Fifteenth Century: the Nevilles and the Wydevilles', Crown and Nobility, 1450-1509, (London, 1976), 93-126.
- Lewis, N. B., 'The Organisation of Indentured Retainers in Fourteenth-Century England', Transactions of the Royal Historical Society, 4th Series, 27 (1945), 29-39.
- Lewis, P. S., 'Sir John Fastolf's Lawsuit over Titchwell 1448-55', Historical Journal, 1 (1958), 1-20.
- Lyle, H. M., The Rebellion of Jack Cade, 1450, (Historical Association Pamphlet, 1950).
- Lyon, B., A Constitutional and Legal History of Medieval England, (New York, 1960).
- McFarlane, K. B., 'Bastard Feudalism', Bulletin of the Institute of Historical Research, 20 (1943-5), 161-180.
- , 'The Investment of Sir John Fastolf's Profits of War', Transactions of the Royal Historical Society, 5th Series, 7 (1957), 91-116.
- , The Nobility of Later Medieval England, (Oxford, 1973)
- , 'Parliament and "Bastard Feudalism"', Transactions of the Royal Historical Society, 4th Series, 26 (1944), 53-79.
- , 'The Wars of the Roses', Proceedings of the British Academy, 50 (1964), 87-119.
- , 'William Worcestre. A Preliminary Survey', Studies Presented to Sir Hilary Jenkinson, ed. J. Conway Davies, (London, 1957), 196-221.
- Milsom, S. F. C., Historical Foundations of the Common Law, (London, 1969).
- Ogilvie, C., The King's Government and the Common Law 1471-1641, (Oxford, 1958).

- Peake, M. I., 'London and the Wars of the Roses', Bulletin of the Institute of Historical Research, 4 (1926-7), 45-47.
- Pevsner, N., Northeast Norfolk and Norwich, (Penguin Buildings of England Series, 1962).
- Plucknett, T. F. T., A Concise History of the Common Law, (London, 1956).
- , 'The Place of the Council in the Fifteenth Century', Transactions of the Royal Historical Society, 4th Series, 1 (1918), 157-189.
- Pronay, N., 'The Chancellor, the Chancery, and the Council at the End of the Fifteenth Century', British Government and Administration: Studies Presented to S. B. Chrimes, eds. H. Hearder and H. R. Loyn, (Cardiff, 1974), 83-103.
- Pugh, T. B., 'The Magnates, Knights and Gentry', Fifteenth-Century England, 1399-1509, eds. S. B. Chrimes et al., (Manchester, 1972), 86-128.
- Putnam, B. H., 'The Transformation of the Keepers of the Peace into Justices of the Peace 1327-1380', Transactions of the Royal Historical Society, 12 (1929), 19-48.
- Rawcliffe, C., 'Baronial Councils in the Later Middle Ages', Patronage, Pedigree and Power in Later Medieval England, ed. C. D. Ross, (Gloucester, 1979), 87-108.
- Richmond, C., John Hopton, A Fifteenth-Century Suffolk Gentleman, (Cambridge, 1981).
- Richmond, C. F., 'Fauconberg's Kentish Rising of May 1471', English Historical Review, 85 (1970), 673-692.
- Roskell, J. S., 'The Office and Dignity of Protector of England, with Special Reference to its Origins', English Historical Review, 68 (1953), 193-233.
- Ross, C. D., Edward IV, (London, 1974).
- , The Wars of the Roses, (London, 1976).
- Sayer, M., 'Norfolk Involvement in Dynastic Struggle 1469-71 and 1483-7', Norfolk Archaeology, 36 (1977), 305-326.
- Simpson, W. D., Castles in England and Wales, (London, 1969).
- Storey, R. L., The End of the House of Lancaster, (London, 1966).
- Strong, F. and D., 'The Will and Codicils of Henry V', English Historical Review, 96 (1981), 79-102.
- Stubbs, W., The Constitutional History of England in its Origin and Development, 3 volumes, (Oxford, 1880).

Thrupp, S. L., The Merchant Class of Medieval London [1300-1500],
(Ann Arbor, Michigan, 1948).

Toy, S., The Castles of Great Britain, (London, 1966).

Tuck, A., Richard II and the English Nobility, (London, 1973).

Vickers, K. H., Humphrey, Duke of Gloucester, (London, 1907).

Virgoe, R., 'The Death of William de la Pole, Duke of Suffolk', Bulletin
of the John Rylands Library, 47 (1964-5), 489-502.

Wedgwood, J. C., History of Parliament. Biographies of Members of the
Common House 1439-1509, (London, 1936).

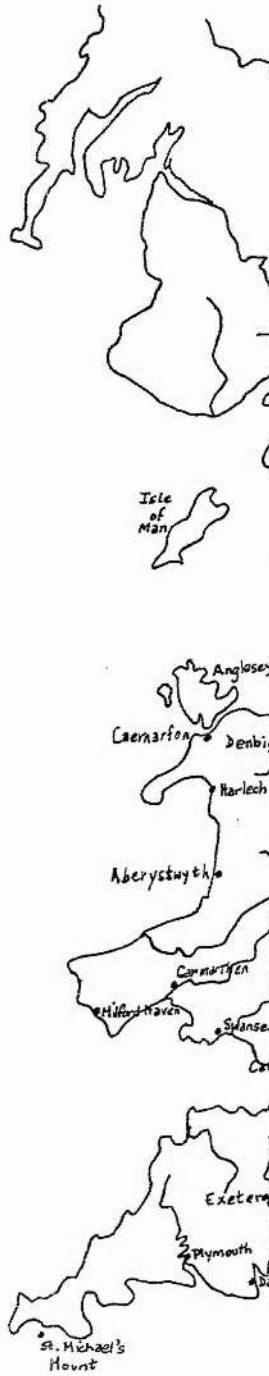
-----, A History of Parliament. Register 1439-1509, (London,
1938).

Wolffe, B. P., Henry VI, (London, 1981).

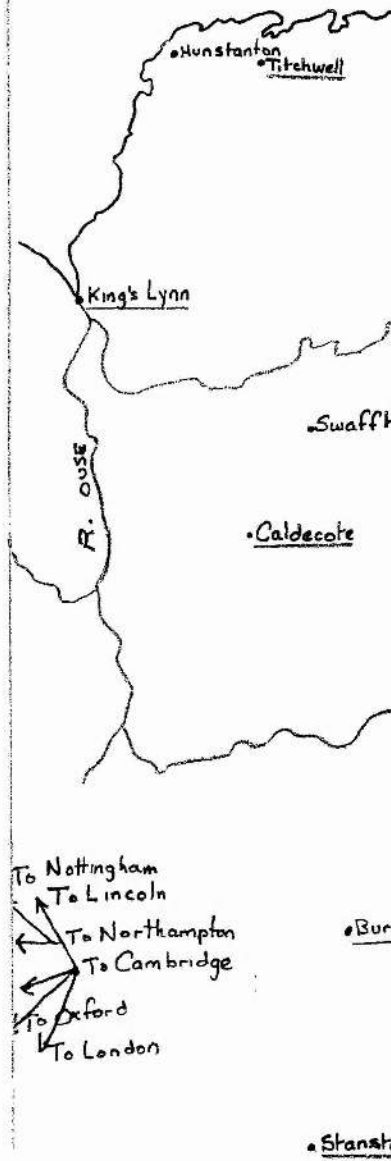
-----, 'The Personal Rule of Henry VI', Fifteenth-Century England
1399-1509, eds. S. B. Chrimes et al., (Manchester, 1972), 29-48.

Wood, M. E., The English Medieval House, (London, 1965).

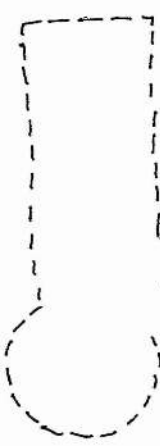
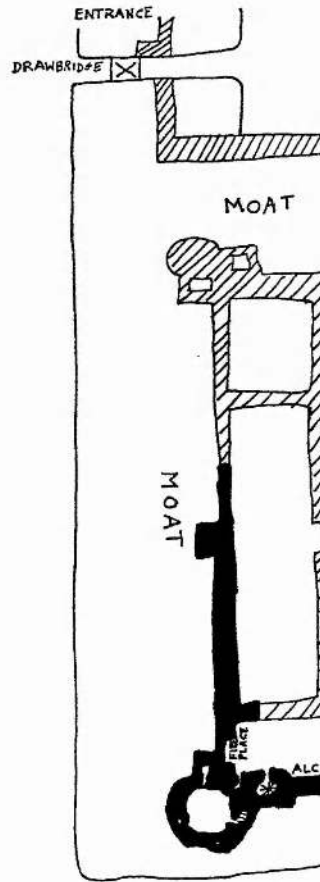
FIFTEENTH



THE PAST



CAISTER



MAP III

0 10 20 30 40 50 60 METRES

0 100 200 FEET

